

CHAPTER 35 - ZONING ORDINANCE

Section 35-100. STATEMENT OF POLICY. The City Council finds that the municipality is faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant, and more economical environment for residential, commercial, industrial and public activities, and to promote the public health, safety, morals, and general welfare. Through enactment of this ordinance, the City Council intends to prepare for anticipated changes and by such preparations, to bring about a significant savings in both private and public expenditures. This ordinance is intended to be one means of effectuating the municipal planning undertaken by this municipality. Through this ordinance, the municipality intends to encourage the wise development of lands within the municipality and to serve its citizens more effectively and to make the provision of public services less costly and to achieve a more secure tax base.

Specifically, the provisions are designed to achieve the foregoing objectives through the regulation of the location, height, bulk, number of stories, size of buildings, and other structures, the percentage of lot area which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, and through the establishment of standards and procedures regulating uses within the City.

Section 35-110. PERMITTED USES. Except as provided for in Section 35-111, no building or premises may hereafter be used or occupied within a given land use district unless it is a permitted use in that district or unless it is authorized as a special use. Sections 35-310, 311, 312, 313, 314, 315, 316, 320, 322, 330, 331, 340, 341 give the various permitted and special uses.

Section 35-111. NONCONFORMING USES. Unless specifically provided otherwise herein, the lawful use of any land or building existing at the time of adoption of this ordinance may be continued even if such use does not conform to the regulations of this ordinance, provided:

1. No such nonconforming use of land shall be enlarged or increased or occupy a greater area of land than that occupied by such use at the time of the adoption of this ordinance.
2. Such nonconforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this ordinance.
3. A nonconforming use of a building existing at the time of adoption of this ordinance may be extended throughout the building provided no structural alterations except those required by ordinance, law, or other regulation are made therein, and provided that no such extension in the floodway overlay zone shall result in increased flood damage potential.

Excepted from the structural alteration limitation are single family dwellings, located in residential districts other than R1 and R2, provided any structural alterations or additions shall conform with the requirements of the R1 and R2 district, and the Flood Plain regulations as applicable.

4. If a nonconforming use occupies a building and ceases for a continuous period of two years, any subsequent use of said building shall be in conformity to the use regulation specified by this ordinance for the district in which such building is located.
5. Any nonconforming use shall not be continued following 50% destruction of the building in which it was conducted by flood, fire, wind, earthquake, or explosion, according to the estimate of the Building Inspector, approved by the City Council, unless application for a building permit is made within 180 days of when the property is damaged. If a building permit is applied for, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.
6. Upon the effective date of this ordinance, where there is a nonconforming use of land on a parcel with no structure or where there is a nonconforming use of land (such as storage of equipment and supplies), on which there is a conforming structure such use shall be terminated within two years following the effective date of this ordinance.

Section 35-201. PLANNING COMMISSION. A Planning Commission of seven members is hereby established and continued as a planning agency advisory to the City Council. The Planning Commission shall have the powers and duties conferred upon it by statute, charter, ordinance or resolution. The Planning Commission shall serve as the Board of Adjustments and Appeals for the purpose of considering variances and appeals.

Section 35-202. COMPREHENSIVE PLANNING.

1. Comprehensive Planning

The City Council hereby undertakes to carry on comprehensive study and planning as a continuing guide for land use and development legislation within the municipality. For this purpose the City Council has adopted, by Resolution No. 00-29, a Comprehensive Guide Plan for the City of Brooklyn Center, and designates an advisory planning agency by Section 35-201 to aid in such planning.

The Planning Commission shall, from time to time, upon its own motion or upon direction of the City Council, review the Comprehensive Plan and by a majority vote of all members of the Planning Commission recommend appropriate amendments to the City Council. Before recommending any such amendments to the City Council, the Planning Commission shall hold at least one public hearing to consider the proposed amendment.

The Secretary to the Planning Commission shall publish notice of the time, place and purpose of the hearing once in the official newspaper of the municipality at least ten (10) days before the date of the hearing. Furthermore, the Secretary shall transmit copies of the proposed amendment to the City Council prior to the publication of the notice of hearing. Following the review and recommendation by the Planning Commission, the City Council shall consider the proposed amendment and may, by resolution of two-thirds of its members, amend the Comprehensive Plan.

2. Coordination with Other Agencies

In the performance of its planning activities, the Planning Commission shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in a development of the comprehensive municipal plan. Furthermore, the Planning Commission shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies.

Section 35-208. REZONING EVALUATION POLICY AND REVIEW GUIDELINES.

1. Purpose

The City Council finds that effective maintenance of the comprehensive planning and land use classifications is enhanced through uniform and equitable evaluation of periodic proposed changes to this Zoning Ordinance; and for this purpose, by the adoption of Resolution No. 77-167, the City Council has established a rezoning evaluation policy and review guidelines.

2. Policy

It is the policy of the City that: a) zoning classifications must be consistent with the Comprehensive Plan, and b) rezoning proposals shall not constitute "spot zoning", defined as a zoning decision which discriminates in favor of a particular landowner, and does not relate to the Comprehensive Plan or to accepted planning principles.

3. Procedure

Each rezoning proposal will be considered on its merits, measured against the above policy and against these guidelines which may be weighed collectively or individually as deemed by the City.

4. Guidelines

- a. Is there a clear and public need or benefit?
- b. Is the proposed zoning consistent with and compatible with surrounding land use classifications?
- c. Can all permitted uses in the proposed zoning district be contemplated for development of the subject property?
- d. Have there been substantial physical or zoning classification changes in the area since the subject property was zoned?
- e. In the case of City-initiated rezoning proposals, is there a broad public purpose evident?
- f. Will the subject property bear fully the ordinance development restrictions for the proposed zoning districts?
- g. Is the subject property generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography or location?

- h. Will the rezoning result in the expansion of a zoning district, warranted by:
1) Comprehensive Planning; 2) the lack of developable land in the proposed zoning district; or 3) the best interests of the community?
- i. Does the proposal demonstrate merit beyond the interests of an owner or owners of an individual parcel?

Section 35-210. REZONING APPLICATION PROCEDURES AND RECONSIDERATION. The following rules shall govern applications for amendments to the Zoning Ordinance hereinafter referred to as "Rezoning Applications":

1. Procedures

- a. A rezoning application may be initiated by the City Council, the Planning Commission, or by the owner of the subject property. Any such application shall be referred to the Planning Commission for public hearing, study, and report and may not be acted upon by the City Council until it has received the recommendation of the Commission, or until seventy-eight (78) days have elapsed from the date of referral of the application without a report by the Planning Commission. The date of referral is defined as the date of the public hearing.
- b. The applicant or his authorized agent shall fill out and submit to the Secretary of the Planning Commission a "zoning application", copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution. The application shall be filed with the Secretary of the Planning Commission at least seventeen (17) days before the date of the public hearing.
- c. The Secretary of the Planning Commission shall refer the matter to the Planning Commission by placing the application upon the agenda of the Commission's next regular meeting; provided, however, that the Secretary may, with the approval of the Chairman of the Commission, place the application on the agenda for a special meeting of the Planning Commission.
- d. Not less than ten (10) days before the date of the hearing the Secretary of the Planning Commission shall mail notice of the hearing to the applicant and to the property owners within 350 feet (including streets) of the subject property. The failure of any such owner or occupant to receive such notice shall not invalidate the proceedings hereunder.
- e. Not less than ten (10) days prior to the date of the hearing the Secretary shall publish a notice of hearing in the official newspaper.

- f. The Planning Commission shall report its recommendations to the City Council not later than sixty (60) days following the date of referral to the Commission.
- g. The application and recommendation of the Planning Commission shall be placed on the agenda of the City Council within eighteen (18) days following the recommendation of the Planning Commission, or in the event the Commission has failed to make a recommendation within seventy-eight (78) days of the date of referral to the Commission.
- h. The City Council shall make a final determination of the application within forty-eight (48) days of the recommendation by the Planning Commission or in the event the Commission has failed to make any recommendation, within one hundred and eight (108) days of the date of referral to the Commission.
- i. The Secretary of the Planning Commission, following the Commission's action upon the application, and the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.
- j. The applicant or his agent shall appear at each meeting of the Commission and of the City Council during which the application is considered. Furthermore, each applicant shall provide for the Commission or the City Council, as the case may be, the maps, drawings, plans, records or other information requested by the Commission or the City Council for the purpose of assisting the determination of the application.

2. Review of Rezoning

Where property within the municipality has been rezoned for a less restrictive land use upon petition of the owner or his agent pursuant to the provisions of this ordinance, and where no structural work thereon has commenced within two (2) years of the date of the rezoning action by the City Council, the Planning Commission may review the zoning classification of the property in the light of the Comprehensive Plan and make appropriate recommendations to the City Council which may include the recommendation that the subject property be rezoned to permit a more restrictive use in conformance with the provisions of the Comprehensive Plan.

Section 35-220. SPECIAL USE PERMITS. Special uses are those which may be required for the public welfare in a given district but which are, in some respects, incompatible with the permitted uses in the district. Before a building or premises is devoted to any use classified as a special use by this ordinance, a special use permit must be granted by the City Council.

The following rules shall govern applications for a special use permit:

1. Procedures

- a. A "Special Use Permit" application shall be initiated by the owner of the subject property or his authorized agent. The application shall be referred to the Planning Commission for public hearing, study and report and may not be acted upon by the City Council until it has received the recommendation of the Commission, or until seventy-eight (78) days have elapsed from the date of referral of the application without a report by the Planning Commission. The date of referral is defined as the date of the public hearing.
- b. The applicant or his authorized agent shall fill out and submit to the Secretary of the Planning Commission a "Special Use Permit" application, copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution. The application shall be filed with the Secretary of the Planning Commission at least fourteen (14) days before the date of the public hearing.
- c. The Secretary of the Planning Commission shall refer the matter to the Planning Commission by placing the application upon the agenda of the Commission's next regular meeting, provided, however, that the Secretary may, with the approval of the Chairman of the Commission, place the Application on the agenda for a special meeting of the Planning Commission.
- d. No less than seven (7) days before the date of the hearing, the Secretary of the Planning Commission shall mail notice of the hearing to the applicant and to the property owners or occupants of all property within 150 feet (including streets) of the subject property when it is within the R1 or R2 districts; and to the property owners or occupants of all property within 350 feet (including streets) of the subject property when it is within any district other than R1 or R2. The failure of any such owner or occupant to receive such notice shall not invalidate the proceedings hereunder.
- e. The Planning Commission shall report its recommendation to the City Council not later than sixty (60) days following the date of referral to the Commission.
- f. The application and recommendation of the Planning Commission shall be placed on the agenda of the City Council within eighteen (18) days following the recommendation of the Planning Commission, or in the event the Commission has failed to make a recommendation, within seventy-eight (78) days of the date of referral to the Commission.

- g. The City Council shall make a final determination of the application within forty-eight (48) days of the recommendation by the Planning Commission, or in the event the Commission has failed to make any recommendation, within one hundred and eight (108) days of the date of referral to the Commission.
- h. The applicant or his agent shall appear at each meeting of the Planning Commission and of the City Council during which the application is considered. Furthermore, each applicant shall provide for the Commission or the City Council, as the case may be, the maps, drawings, plans, records, or other information (see Section 35-230, Plan Approval) requested by the Commission or the City Council for the purpose of assisting the determination of the application.
- i. The Secretary of the Planning Commission, following the Commission's action upon the application, and the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

2. Standards for Special Use Permits

A special use permit may be granted by the City Council after demonstration by evidence that all of the following are met:

- a. The establishment, maintenance or operation of the special use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
- b. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- c. The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- d. Adequate measures have been or will be taken to provide ingress, egress and parking so designed as to minimize traffic congestion in the public streets.
- e. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

3. Conditions and Restrictions

The Planning Commission may recommend and the City Council may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with requirements specified in this ordinance. In all cases in which special use permits are granted, the City Council may require such evidence and guarantees as it may deem necessary as part of the conditions stipulated in connection therewith.

4. Resubmission

No application for a special use permit which has been denied by the City Council shall be resubmitted for a period of twelve (12) months from the date of the final determination by the City Council; except that the applicant may set forth in writing newly discovered evidence of change of condition upon which he relies to gain the consent of the City Council for resubmission at an earlier time.

5. Revocation and Extension of Special Use Permits

When a special use permit has been issued pursuant to the provisions of this ordinance, such permit shall expire without further action by the Planning Commission or the City Council unless the applicant or his assignee or successor commences work upon the subject property within one year of the date the special use permit is granted, or unless before the expiration of the one year period the applicant shall apply for an extension thereof by filling out and submitting to the Secretary of the Planning Commission a "Special Use Permit" application requesting such extension and paying an additional fee in an amount as set forth by the City Council resolution.

Special use permits granted pursuant to the provisions of a prior ordinance of Brooklyn Center shall expire within one year of the effective date of this ordinance if construction upon the subject property pursuant to such special use permit has not commenced within that time.

In any instance where an existing and established special use is abandoned for a period of one year, the special use permit related thereto shall expire one year following the date of abandonment.

Section 35-230. PLAN APPROVAL. It is declared to be the policy of the City to preserve and promote an attractive, stable residential and business environment for its citizens through encouraging well conceived, high quality developments. To this end, imaginative architectural concepts shall be employed in the design of buildings and in the development of respective sites. In this regard, every person, before commencing the construction or major alteration of a structure, except one and two family dwellings and buildings accessory thereto, shall make application for plan approval from the City Council. Plan approval may be required in conjunction with special use permit consideration. The following rules shall govern applications for plan approval.

1. Procedures

- a. A "Plan Approval" application shall be initiated by the owner of subject property or by his authorized agent.

The applicant shall fill out and submit to the Secretary of the Planning Commission a "Plan Approval" application, copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution.

The application shall be filed with the Secretary of the Planning Commission at least fourteen (14) days prior to the next regular meeting of the Planning Commission.

- b. The Secretary of the Planning Commission shall refer the matter to the Planning Commission by placing the application upon the agenda of the Commission's next regular meeting; provided, however, that the Secretary may, with the approval of the Chairman of the Commission, place the application on the agenda for a special meeting of the Planning Commission.
- c. The Planning Commission shall report its recommendation to the City Council not later than sixty (60) days following the date of referral to the Commission. The date of referral is defined as the date upon which the application is first considered by the Planning Commission.
- d. The application and recommendation of the Commission shall be placed on the agenda of the City Council within eighteen (18) days following the recommendation of the Planning Commission, or in the event the Commission has failed to make a recommendation, within seventy-eight (78) days of the date of referral to the Commission.

- e. The City Council shall make a final determination of the application within forty-eight (48) days of the recommendation by the Planning Commission, or in the event the Commission has failed to make any recommendation, within one hundred and eight (108) days of the date of referral to the Commission. If during City Council consideration of the plans the applicant submits substantially altered plans from those originally submitted and reviewed by the Planning Commission, the Council shall refer the altered plans back to the Planning Commission for review and recommendation except for alterations or changes requested by the City Council. The time needed for such a referral and review of altered plans shall not count against the time period which the City Council has to make a determination on the application.
- f. The applicant or his agent shall appear at each meeting of the Commission and the City Council to answer questions regarding the maps, drawings, plans and to furnish such information as may be required.
- g. The Secretary of the Planning Commission, following the Commission's action upon the application, and the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

2. Required Documents

Concurrent with filing application for plan approval, the applicant shall submit, as required, to the Secretary of the Planning Commission the following documents and information:

- a. A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions, accurately dimensioned.
- b. A complete set of preliminary architectural drawings prepared by a registered architect showing:
 - I An accurately scaled and dimensioned site plan indicating parking layout including access provisions, designation of locations of possible accessory buildings; landscaping, including trees and shrubbery with indication of species, planting, size and location.
 - II Fences or walls or other screening, including height and type of material.
 - III Lighting provisions, type and location.
 - IV Curbs.

- V Building floor plans, elevations, sections and outline specifications, including materials proposed.
- VI Existing and proposed land elevations, drainage provisions, temporary and permanent erosion control provisions, and utility provisions as may be required.

3. Conditions and Restrictions

The Planning Commission may recommend and the City Council may impose such conditions and restrictions as deemed necessary to protect the public interest and to secure compliance with the requirements of the ordinance.

The conditions may include the execution and submission of a Performance Agreement with a supporting financial guarantee that the subject property will be constructed, developed, and maintained in conformance with the plans, specifications and standards.

Section 35-235. PERMIT FOR LAND DISTURBING ACTIVITIES.

1. No construction, reconstruction, development, redevelopment, grading, excavation, or other activity shall occur without first securing a permit from the City Engineer if such activity causes a land disturbance of one-half (1/2) acre or more of land.
2. The applicant shall submit construction plans and supporting calculations. The submittals shall comply with the following requirements.
 - a. The plans shall meet the requirements of the Shingle Creek and West Mississippi Watershed Management Commission's Rules and Standards, and the Minnesota Pollution Control Agency Construction Permit. Alternative treatment best management practices must be considered where any of the following apply:
 - i. Where industrial facilities are not authorized to infiltrate industrial stormwater under a National Pollutant Discharge Elimination System/State Disposal System Permit;
 - ii. When receiving runoff from fueling and vehicle maintenance areas, unless the infiltration practices is designed to allow for spill control;
 - iii. The infiltration practice shall be 10 feet away from all buildings, or;
 - iv. The infiltration practice shall not be used within fifty-feet (50') of a municipal or private well, unless specifically allowed by an approved wellhead protection plan.

- b. The plan shall provide 2-foot contour lines with spot elevations of proposed grades in relation to existing grades on the subject property and adjacent land. The location and type of erosion control devices shall be clearly labeled.
 - c. The plan shall address the management of post development runoff and means of assuring the long-term maintenance and operation of best management practices and storm water management structures, devices and methods.
- 3. The City Engineer may require such additions or modifications to the plan and may impose such conditions and restrictions on the permit as the Engineer deems necessary to provide water quality protection. Such conditions may include, but are not limited to: limiting the size, kind or character of the proposed development; requiring the construction of structures, drainage facilities, storage basins and other facilities; requiring the replacement of vegetation; establishing required monitoring procedures; requiring that the work be staged over time; requiring the execution and filing of such declarations or agreements as the Engineer deems necessary to assure the continuing monitoring and maintenance of all facilities and systems; and requiring a performance bond, or other acceptable security, to assure that all facilities and systems are constructed as required.
- 4. Every effort shall be made during the permit application process to determine the full extent of erosion control required. However, the City Engineer may require additional controls to correct specific site related problems as inspections are performed during construction.
- 5. All erosion control noted on the approved plan shall be installed prior to the initiation of any site grading or construction.
- 6. All activities requiring a permit under this section shall conform to all requirements of federal, state and local laws, rules and regulations.
- 7. The City Engineer shall inspect and enforce all control measures and shall receive and consider reports of non-compliance or other information on construction issues related to water quality submitted by members of the public. Non-compliance with the requirements of this section, the approved plan, any conditions or restrictions imposed by the City Engineer, or any orders issued by the City Engineer under paragraph 4 of this Section is a violation of this Section. Violation of this Section is a misdemeanor and constitutes grounds for the City to issue an order to halt all construction or pursue any other legal or equitable remedy to enforce the requirement of this Section.

8. Maintenance of Private Stormwater Management Facilities.

- a. No private Stormwater Management Facilities may be approved unless a maintenance plan is provided and is consistent with City Code, and the Shingle Creek and West Mississippi Watershed Management Commissions' Rules & Standards. All such facilities shall be inspected annually, with reports submitted to the City, and maintained in proper condition consistent with the performance standards for which they were originally designed.
- b. Owners of private Stormwater Management Facilities shall enter into an agreement with the City setting out how the owners shall provide for the long-term operations and maintenance of the facilities.

9. Easements.

The applicant shall establish, in a form acceptable to the City, temporary and perpetual easements for ponding, flowage, and drainage purposes over hydrologic features such as water bodies and stormwater basins. The easements shall include the right of reasonable access for inspection, monitoring, maintenance, and enforcement purposes.

10. Enforcement Actions to Ensure Compliance.

- a. Orders. The City may issue an order to modify the approved plan and stipulate a time frame for compliance. The applicant must comply with said order.
- b. Permit Suspension. The City shall suspend the Permit and issue a stop work order if the City determines the applicant supplied incorrect information, or the applicant is in violation of any provision of the approved plans, the Permit, or this Section. The City shall reinstate a suspended Permit upon the applicant's correction of the cause of the suspension.
- c. Construction Stop Work Order. The City Building Official may issue a stop work order for a related building Permit if requested by the City.
- d. Permit Revocation. If the applicant fails or refuses to cease work as required, the City shall revoke the Permit and the applicant shall be subject to enforcement, penalties, and loss of its financial security. The City shall not reinstate a revoked Permit, but an owner may apply for a new permit.
- e. Remedial Corrective Action. The City or a private contractor under contract with the City may conduct remedial or corrective action on the project Site or adjacent Sites affected by project failure or to implement actions specified in an order to modify plans. The City may charge applicant for all costs associated with correcting failures or remediating damage from the failures according to the order including but not limited to, materials, equipment, staff

time and attorney's fees. If payment is not made within thirty (30) days, payment will be made from the applicant's financial security or, in the case where no Permit was issued, payment will be assessed against the property.

- f. **Action Against Financial Security.** In any of the following circumstances, the City shall use funds from the financial security to finance remedial work undertaken later by the City or a private contractor under contract to the City, and to reimburse the City for all direct costs including, but not limited to, staff time and attorney's fees:
 - i. The Applicant ceases Land-Disturbing Activities and/or filling activities prior to completion of the Stormwater Management Plan;
 - ii. The Applicant fails to conform to the Stormwater Management Plan as approved or as modified under this Code, and has had his/her Permit revoked under this Code;
 - iii. The techniques utilized under the Stormwater Management Plan fail within one (1) year of installation, or before Final Stabilization is implemented for the Site or portions of the Site, whichever is later, or;
 - iv. The City determines that action by the City is necessary to prevent excessive erosion from occurring on the Site.
- g. **Misdemeanor Violation.** Any violation of the provisions of this Section or failure to comply with any of its requirements shall constitute a misdemeanor.
- h. **Cumulative Enforcement.** The procedures for enforcement of a Permit, as set forth in this Section, are cumulative and not exclusive.

11. **Financial Security.**

The City shall collect a surety for erosion and sediment control before any building permit is issued. The surety is returned to the person who posted the security when the permanent erosion and sediment control has been established and has been approved by the City. The surety will be used to either remedy erosion or sediment control violations or to complete the establishment of permanent erosion and sediment control, as necessary.

Section 35-240. VARIANCES. In instances where the strict enforcement of the literal provisions of this zoning ordinance would cause undue hardship because of circumstances unique and distinctive to an individual property under consideration, the City Council shall have the power to grant variances, in keeping with the spirit and intent of this ordinance. The provisions of this ordinance, considered in conjunction with the unique and distinctive circumstances affecting the property must be the proximate cause of the hardship, circumstances caused by the property owner or his predecessor in title shall not constitute sufficient justification to grant a variance.

The following rules shall govern applications for a variance from the strict requirements of this ordinance:

1. Procedures

- a. A "Variance" application shall be initiated by the owner of the subject property or his authorized agent. The application shall be referred to the Board of Adjustments and Appeals for public hearing, study, and report and may not be acted upon by the City Council until it has received the recommendation of the Board, or until seventy-eight (78) days have elapsed from the date of referral of the application without a report by the Board. The date of referral is defined as the date of the public hearing.
- b. The applicant shall fill out and submit to the Secretary of the Board of Adjustments and Appeals a "Variance" application, copies of which are available at the municipal offices, together with a fee in an amount as set forth by City Council resolution. The application shall be filed with the Secretary of the Board at least fourteen (14) days before the date of the public hearing.
- c. The Secretary of the Board of Adjustments and Appeals shall refer the matter to the Board by placing the application upon the agenda of the Board's next regular meeting; provided, however, that the Secretary may, with the approval of the Chairman of the Board, place the application on the agenda for a special meeting of the Board of Adjustments and Appeals.
- d. No less than seven (7) days before the date of the hearing, the Secretary to the Board of Adjustments and Appeals shall mail notice of the hearing to the applicant and to the property owners or occupants within 150 feet (including streets) of the subject property. The failure of any such owner or occupant to receive such notice shall not invalidate the proceedings thereunder.
- e. The Board of Adjustments and Appeals shall report its recommendations to the City Council not later than sixty (60) days following the date of referral to the Board.

- f. The application and recommendation of the Board of Adjustments and Appeals shall be placed on the agenda of the City Council within eighteen (18) days following the recommendation of the Board, or in the event the Board has failed to make a recommendation, within seventy-eight (78) days of the date of referral to the Board.
- g. The City Council shall make a final determination of the application within forty-eight (48) days of the recommendation by the Board of Adjustments and Appeals, or in the event the Board has failed to make any recommendation, within one hundred and eight (108) days of referral to the Board.
- h. The applicant or his agent shall appear at each meeting of the Board of Adjustments and Appeals and of the City Council during which the application is considered. Furthermore, each applicant shall provide for the Board or the City Council, as the case may be, the maps, drawings, plans, records or other information requested by the Board or the City Council for the purpose of assisting the determination of the application.
- i. The Secretary of the Board of Adjustments and Appeals following the Board's action upon the application, the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

2. Standards for Variances

The Board of Adjustments and Appeals may recommend and the City Council may grant variances from the literal provisions of this ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique and distinctive to the individual property under consideration. However, the Board shall not recommend and the City Council shall in no case permit as a variance any use that is not permitted under this ordinance in the district where the affected person's land is located. A variance may be granted by the City Council after demonstration by evidence that all of the following qualifications are met:

- a. Because of the particular physical surroundings, shape, or topographical conditions of the specific parcels of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- b. The conditions upon which the application for a variance is based are unique to the parcel of land for which the variance is sought, and are not common, generally, to other property within the same zoning classification.

- c. The alleged hardship is related to the requirements of this ordinance and has not been created by any persons presently or formerly having an interest in the parcel of land.
- d. The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.

3. Conditions and Restrictions

The Board of Adjustments and Appeals may recommend and the City Council may impose conditions and restrictions in the granting of variances so as to insure compliance with the provisions of this ordinance and with the spirit and intent of the Comprehensive Plan and to protect adjacent properties.

Section 35-251. APPEALS.

1. Appeal Matters

The Planning Commission acting as the Board of Adjustments and Appeals shall hear and recommend and the City Council shall make a final determination in the following appeal matters:

- a. Appeals from the denial of a building permit made pursuant to the adoption of an official map as provided for in Minnesota State Law.
- b. Appeals from an order, requirement, or determination made by an administrative officer in the enforcement of the zoning ordinance, where it is alleged that some error in interpretation or judgment exists as provided for in Section 462.357, Subdivision 6 (1), Laws of Minnesota.

2. Procedures

- a. A written appeal stating the position of the appellant and a fee in an amount as set forth by City Council resolution shall be filed with the Secretary of the Board of Adjustments and Appeals at least fourteen (14) days prior to the next regular meeting of the Board of Adjustments and Appeals.
- b. The Secretary shall refer the matter to the Board by placing the application upon the agenda of the Board's next regular meeting.
- c. The Board shall report its recommendations to the City Council not later than thirty (30) days following the date of referral to the Board.

- d. The application and recommendation of the Board of Adjustments and Appeals shall be placed on the agenda of the City Council within eighteen (18) days following the recommendation of the Board, or in the event the Board has failed to make a recommendation, within forty-eight (48) days of the date of referral to the Board.
- e. The City Council shall make a final determination of the application within thirty-two (32) days of the recommendation by the Board of Adjustments and Appeals, or in the event the Board has failed to make any recommendation, within sixty-two (62) days of the date of referral to the Board.
- f. The Secretary of the Board of Adjustments and Appeals, following the Board's action upon the application, and the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

Section 35-300. LAND USE DISTRICTS. For the purpose of this ordinance, the City of Brooklyn Center is hereby classified into the following land use districts:

1. Residence

- R1 One family residence
- R2 Two family residence
- R3 Multiple family residence (townhouse/garden apartment)
- R4 Multiple family residence (1-1/2 and 2 story)
- R5 Multiple family residence (2-1/2 and 3 story)
- R6 Multiple family residence (4 and 5 story)
- R7 Multiple family residence (6 stories or more)

2. Commerce

- C1 Service/office
- C1A Service/office
- C2 Commerce

3. Industry

I-1 Industrial Park

I-2 General Industry

4. Open Space

0-1 Public open space reserved

0-2 Public and private open space reserved

The location and boundaries of the districts established by this ordinance are set forth in Sections 35-1100, 35-1110, 35-1120, 35-1130, 35-1140, 35-1150, 35-1160, 35-1170, 35-1180, 35-1190, 35-1200, 35-1210, 35-1220, 35-1230. Unless otherwise indicated by relation to established lines, points, or features, the district boundary lines are the centerlines of streets, alleys, or railroad rights-of-way, existing or extended.

Section 35-310. R1 ONE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

a. One family dwellings.

b. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory uses. Such accessory uses to include but not be restricted to the following:

- 1) Offstreet parking and offstreet loading.
- 2) Renting of not more than two indoor parking spaces.
- 3) Accessory buildings or carports, either detached or attached to the dwelling building, subject to the limitations set forth in Section 35-530.
- 4) Public recreational structures in parks, playgrounds and athletic fields.
- 5) Playground equipment and installations, including private swimming pools and tennis courts.
- 6) Home occupations not to include special home occupations as defined in Section 35-900.

- 7) Signs as permitted by the Brooklyn Center Sign Ordinance.
 - 8) A temporary real estate tract office for the purpose of selling lots on the tract upon which it is located.
 - 9) The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate offstreet parking is provided.
 - 10) Tents, stands and other temporary structures for churches, charities, carnivals and similar purposes as provided by Section 35-800 of these ordinances.
 - 11) Rummage sales as defined in Section 35-900.
- c. Licensed residential programs with a licensed capacity of six or fewer persons required to be permitted by M.S. 245A.11, Subd. 2 and M.S. 462.357, Subd. 7.
 - d. Licensed nonresidential programs with a licensed capacity of 12 or fewer persons required to be permitted by M.S. 245A.14, Subd. 1.
 - e. Licensed day care facility serving 12 or fewer persons required to be permitted by M.S. 462.357, Subd. 7.
 - f. Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children required to be permitted by M.S. 245.14, Subd. 1 and M.S. 462.357, Subd. 7.

2. Special Uses

- a. Chapels, churches, temples and synagogues, provided primary vehicular access shall be gained to the uses by a collector or arterial street.
- b. Public and private elementary and secondary schools offering a regular course of study accredited by the Minnesota Department of Education, provided primary vehicular access shall be gained to the uses by a collector or arterial street.
- c. Golf courses and accessory buildings essential to the operation of a golf course.
- d. Cemeteries.

- e. Publicly-owned structures, other than poles and underground facilities in easements or in rights-of-way of public streets or alleys.
- f. Special home occupations as defined in Section 35-900.
- g. Other, noncommercial uses required for the public welfare in an R1 district, as determined by the City Council.

3. Interim Uses

- a. Temporary classroom buildings as an accessory use to a public or private elementary or secondary school offering a regular course of study accredited by the Minnesota Department of Children, Families and Learning, subject to the following procedures and conditions:

- 1) Interim use permits will be issued in accordance with the procedures and subject to the conditions stated in Section 35-220.
- 2) At the time of granting such a permit the Council shall specify a date or event that can be identified with certainty by which the interim use must be terminated and the structure(s) shall be removed from the site. In any event, however, such interim use shall not continue beyond any date when the Council, or any other governmental body having the power of eminent domain, adopts a resolution approving acquisition of the property by eminent domain, or the zoning of the property is changed to any classification under which the interim use is no longer permitted.
- 3) The Council may impose any conditions on such interim use which it deems necessary or expedient to protect the public health, safety or welfare or to assure that permission for the interim use will not impose additional costs on the public if it is necessary or expedient to take the property in the future.

No such permit shall be issued unless the applicant first agrees in writing to the imposition of any such conditions.

- 4) In addition to any other conditions which may be imposed by the Council, the following restrictions shall apply:
 - aa. Applicable lot standards and sign regulations shall be observed.
 - bb. A landscape and parking plan for the property shall be submitted and approved by the Council.

- cc. Unless approved by the Council pursuant to this section and section 35-220, no new buildings may be erected on the property and no existing buildings may be expanded while the interim use continues.
- dd. Temporary classrooms may be used for classrooms only and may not be used for storage or converted to another use.
- ee. The total square footage of temporary classrooms on any one site shall not exceed 2000 square feet.

Section 35-311. R2 TWO FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

- a. One and two family dwellings.
- b. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory use. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Renting of not more than two indoor parking spaces.
 - 3) Accessory buildings or carports, either detached or attached to the dwelling building, subject to the limitations set forth in Section 35-530.
 - 4) Public recreational structures in parks, playgrounds and athletic fields.
 - 5) Playground equipment and installations, including private swimming pools and tennis courts.
 - 6) Home occupations not to include special home occupations as defined in Section 35-900.
 - 7) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 8) A temporary real estate tract office for the purpose of selling lots on the tract upon which it is located.

- 9) The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate offstreet parking is provided.
 - 10) Tents, stands and other temporary structures for churches, charities, carnivals and similar purposes as provided by Section 35-800 of these ordinances.
 - 11) Rummage sales as defined in Section 35-900.
- c. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M.S. 462.357, Subd. 8.
 - d. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
 - e. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.

2. Special Uses

- a. Chapels, churches, temples and synagogues, provided primary vehicular access shall be gained to the uses by a collector or arterial street.
- b. Public and private elementary and secondary schools offering a regular course of study accredited by the Minnesota Department of Education provided primary vehicular access shall be gained to the uses by a collector or arterial street.
- c. Golf course and accessory buildings essential to the operation of a golf course.
- d. Nursing homes and rest homes provided primary vehicular access shall be gained by a collector or arterial street.
- e. Cemeteries.
- f. Publicly-owned structures, other than poles and underground facilities in easements or in rights-of-way of public streets or alleys.
- g. Special home occupations as defined in Section 35-900.
- h. Other, noncommercial uses required for the public welfare in an R2 district as determined by the City Council.

Section 35-312. R3 MULTIPLE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

- a. Townhouses or garden apartments and condominium single family attached dwelling units as defined in Section 35-900.
- b. Parks, playgrounds, athletic fields and other recreational uses of a noncommercial nature.
- c. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory use. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet Parking and offstreet loading.
 - 2) Garages, carports, screen houses, conservatories, etc. for use by the occupants of the principal use.
 - 3) Public recreational structures in parks, playgrounds and athletic fields.
 - 4) Playground equipment and installations, including private swimming pools and tennis courts.
 - 5) Home occupations not to include special home occupations as defined in Section 35-900.
 - 6) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 7) A temporary tract office for the purpose of promoting the development in which it is located.
 - 8) Rummage sales as defined in Section 35-900.
- d. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M.S. 462.357, Subd. 8.
- e. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
- f. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.

2. Special Requirements

- a. See Section 35-410 of these ordinances.

3. Special Uses

- a. Noncommercial uses required for the public welfare in an R3 district, as determined by the City Council.
- b. Planned Residential Developments comprising a variety of dwelling modes as a special use permitted in the R3 district subject to the following conditions:
- 1) The minimum land area shall be 5 acres.
 - 2) At least 25% of the total number of dwelling units shall be townhouse/garden apartments or condominium single family attached dwelling units as defined in Section 35-900.
 - 3) If the Planned Residential Development is to be constructed in multiple phases, at least 20% of the total number of dwelling units in each phase shall be townhouse/garden apartments or condominium single family attached dwelling units, until the above minimum requirement has been fulfilled.
 - 4) No dwelling unit or other permitted structure shall exceed three stories in height.
 - 5) Certain commercial uses intended for the convenience and enjoyment of the residents of said development shall be permitted, including retail grocery shops, laundry and dry cleaning pickup stations, beauty parlors, barber shops and valet shops, within multiple family dwellings containing thirty (30) or more dwelling units, subject to the following conditions:
 - aa. Such shops shall be accessible to the residents through a common hall or lobby.
 - bb. No advertising or display shall be visible from outside the building.
 - cc. Such shops shall be restricted to the ground floors or subfloors.
 - dd. The total area of such shops shall not exceed 50% of the total floor area of the ground level of the building.

- ee. Such shops are subject to all applicable codes, ordinances and laws relative to licensing for the health, safety and welfare of the community.
 - ff. Any shop or shops not indicated on the initial approved plans shall be considered and approved by the Planning Commission and City Council before said commercial use is established.
 - gg. The size and number of said shops shall represent a factor in the determination of required parking spaces for the building.
- c. Office uses not more than two stories in height and which are described in Section 35-320, Subsection 1 (b) through 1 (d) and 1 (j) through 1 (s). Such office uses shall be subject to the requirements set forth in Section 35-411.

Section 35-313. R4 MULTIPLE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

- a. Multiple family dwellings of one and one-half or two stories in height.
- b. R3 uses, provided such uses shall adhere to the district requirements that prevail in the R3 zoning district.
- c. Parks, playgrounds, athletic fields and other recreational uses of a noncommercial nature.
- d. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory uses. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Garages for use by occupants of the principal use.
 - 3) Playground equipment and installations, including swimming pools and tennis courts.
 - 4) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 5) A real estate office for the purpose of leasing or selling apartment units in the development in which it is located.

- 6) Home occupations not to include special home occupations as defined in Section 35-900.
 - e. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M. S. 462.357, Subd. 8.
 - f. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
 - g. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.
2. Special Requirements
- a. See Section 35-410 of these ordinances.
3. Special Uses
- a. Nursing care homes, (at not more than 50 beds per acre), provided that these institutions shall, where required by state law, or regulation, or by municipal ordinance, be licensed by the appropriate state or municipal authority.

Section 35-314. R5 MULTIPLE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses
- a. Multiple family dwellings of two and one half or three stories in height.
 - b. R3 uses, provided such uses shall adhere to the district requirements that prevail in the R3 zoning district.
 - c. R4 uses, provided such uses shall adhere to the district requirements that prevail in the R4 zoning district.
 - d. Parks, playgrounds, athletic fields and other recreational uses of a noncommercial nature.
 - e. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory use. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.

- 2) Garages and ramps for use by occupants of the principal use.
 - 3) Playground equipment and installations, including swimming pools and tennis courts.
 - 4) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 5) A real estate office for the purpose of leasing or selling apartment units in the development in which it is located.
 - 6) Home occupations not to include special home occupations as defined in Section 35-900.
- f. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M.S. 462.357, Subd. 8.
 - g. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
 - h. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.
2. Special Requirements
- a. See Section 35-410 of these ordinances.
3. Special Uses
- a. Nursing care homes, (at not more than 50 beds per acre), provided that these institutions shall, where required by state law, or regulation, or by municipal ordinance, be licensed by the appropriate state or municipal authority.
 - b. Certain service-office uses which, in each specific case, are demonstrated to the City Council to be:
 - 1) Compatible with existing adjacent land uses as well as with those uses permitted in the R5 district generally.
 - 2) Complementary to existing adjacent land uses as well as to those uses permitted in the R5 district generally.
 - 3) Of comparable intensity to permitted R5 district land uses with respect to activity levels.

- 4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.

and which are described in Section 35-320, Subsections 1 (b) (c) (d) and (j) through (t). Such service-office uses shall be subject to the C1 district requirements of Sections 35-400 and 35-411, and shall otherwise be subject to the ordinance requirements of the use classification which the proposed use represents.

- c. Chapels, churches, synagogues and temples, provided primary vehicular access shall be gained to the uses by a collector or arterial street.
- d. Public and private elementary and secondary schools offering a regular course of study accredited by the Minnesota Department of Education provided primary vehicular access is gained to the use by a collector or arterial street.

Section 35-315. R6 MULTIPLE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

- a. Multiple family dwellings of four or five stories in height.
- b. Low rise multiple family dwellings of one and one-half through three stories in height, provided such low rise dwellings are part of a planned integral development with (a) above. Further provided such low rise dwellings:
 - 1) Shall contain no more than 65% of the total dwelling units in the planned development.
 - 2) Shall conform to the density requirements of the zoning district which their respective heights prescribe.
- c. Retail food shops, drycleaning pickup stations, beauty parlors, barber shops, and valet shops within multiple family dwellings containing 30 or more dwelling units. Such shops shall be accessible to the public through a lobby with no advertising or display to be visible from outside the building, and shall be restricted to the ground floor or subfloors.
- d. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory, but not including any business or industrial uses. Such accessory uses to include but not be restricted to the following:

- 1) Offstreet parking and offstreet loading.
 - 2) Garages and ramps for use by occupants of the principal use.
 - 3) Swimming pools and tennis courts.
 - 4) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 5) A real estate office for the purpose of leasing or selling apartment units in the development in which it is located.
 - 6) Home occupations not to include special home occupations as defined in Section 35-900.
- e. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M. S. 462.357, Subd. 8.
 - f. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
 - g. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.
2. Special Requirements
 - a. See Section 35-410 of these ordinances.

Section 35-316. R7 MULTIPLE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses
 - a. Multiple family dwellings of six stories or more in height.
 - b. Low rise multiple family dwellings or two and one-half through five stories in height, provided such low rise dwellings are part of a planned integral development with (a) above. Further provided such low rise dwellings:
 - 1) Shall contain no more than 65% of the total dwelling units in the planned development.
 - 2) Shall conform to the density requirements of the zoning district which their respective heights prescribe.

- c. Retail food shops, drycleaning pickup stations, beauty parlors, barber shops, and valet shops within multiple family dwellings containing 30 or more dwelling units. Such shops shall be accessible to the public through a lobby with no advertising or display to be visible from outside the building, and shall be restricted to the ground floor or subfloors.
- d. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory use. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Garages and ramps for use by occupants of the principal use.
 - 3) Playground equipment and installations including swimming pools and tennis courts.
 - 4) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 5) A real estate office for the purpose of leasing or selling apartment units within the development in which it is located.
 - 6) Home occupations not to include special home occupations as defined in Section 35-900.
- e. Licensed residential programs with a licensed capacity of seven to 16 adults or children required to be permitted by M.S. 245A.11, Subd. 3 and M.S. 462.357, Subd. 8.
- f. Licensed nonresidential programs with a licensed capacity of 13 to 16 persons required to be permitted by M.S. 245A.14, Subd. 2.
- g. Licensed day care facility serving from 13 through 16 persons required to be permitted by M.S. 462.357, Subd. 8.

2. Special Requirements

- a. See Section 35-410 of these ordinances.

Section 35-320. C1 SERVICE/OFFICE DISTRICT.

1. Permitted Uses

The following service/office uses are permitted in the C1 district, provided that the height of each establishment or building shall not exceed three stories, or in the event that a basement is proposed, three stories plus basement:

- a. Nursing care homes, (at not more than 50 beds per acre), provided, however, that such institutions shall, where required by state law, or regulations of the licensing authority, be licensed by the appropriate state or municipal authority.
- b. Finance, insurance, real estate and investment office.
- c. Medical, dental, osteopathic, chiropractic and optometric offices.
- d. Legal office, engineering and architectural offices, educational and scientific research offices (excluding laboratory facilities), accounting, auditing and bookkeeping offices, urban planning agency offices.
- e. Places for religious assemblies such as chapels, churches, temples, mosques, and synagogues.
- f. Beauty and barber services.
- g. Funeral and crematory services.
- h. Photographic services.
- i. Apparel repair, alteration and cleaning pickup stations, shoe repair.
- j. Advertising offices, provided that the fabrication of signs shall not be a permitted use.
- k. Consumer and mercantile credit reporting services office, adjustment and collection service offices.
- l. Duplicating, mailing and stenographic service offices.
- m. Employment agency offices.
- n. Business and management consultant offices.
- o. Detective and protective agency offices.
- p. Contractor's offices.
- q. Governmental offices.

- r. Business association, professional membership organizations, labor unions, civic, social and fraternal association offices.
- s. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 3) The compounding, dispensing or sale (at retail) of drugs, prescription items, patent or proprietary medicines, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric offices.
 - 4) Retail food shops, gift shops, book and stationery shops, tobacco shops, accessory eating establishments, sale and service of office supply equipment, newsstands and similar accessory retail shops within multistory office buildings over 40,000 sq. ft. in gross floor area, provided: that there is no associated signery visible from the exterior of the building; there is no carry-out or delivery of food from the lot; and the total floor area of all such shops within a building shall not exceed 10% of the total gross floor area of the building.
- t. Other uses similar in nature to the aforementioned uses as determined by the City Council.
- u. Financial institutions including, but not limited to, full-service banks and savings and loan associations.
- v. Drop-in child care centers licensed by the Minnesota Department of Public Welfare pursuant to a valid license application, provided that a copy of said license and application shall be submitted annually to the City.
- w. Leasing offices, provided there is no storage or display of products on the use site.
- x. Libraries and art galleries.

2. Special Requirements

- a. See Section 35-411 of these ordinances.

3. Special Uses

- a. Accessory off-site parking not located on the same property with the principal use, subject to the provisions of Section 35-701.
- b. Group day care facilities provided that such developments, in each specific case, are demonstrated to be:
 - 1) Compatible with existing adjacent land uses as well as with those uses permitted in the C1 district generally.
 - 2) Complementary to existing adjacent land uses as well as to those uses permitted in the C1 district generally.
 - 3) Of comparable intensity to permitted C1 district land uses with respect to activity levels.
 - 4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.
 - 5) Traffic generated by other uses on the site will not pose a danger to children served by the day care use.

and further provided that the special requirements set forth in Section 35-411 are adhered to.

- c. Instructional uses for art, music, photography, decorating, dancing and the like and studios for like activity.
- d. Nonresidential educational uses including Area Learning Centers (ALC), post secondary schools, business schools, trade schools and the like, but excluding public and private elementary and secondary schools (K-12).

Section 35-321. C1A SERVICE/OFFICE DISTRICT.

1. Permitted Uses (No height limitation)

- a. All of the permitted uses set forth in Section 35-320 shall be permitted in a building or establishment in the C1A district.
- b. Transient Lodging and Associated Uses.

2. Special Requirements

- a. See Section 35-411 of these ordinances.

3. Special Uses

- a. Accessory off-site parking not located on the same property with the principal use, subject to the provisions of Section 35-701.
- b. All of the special uses set forth in Section 35-320 shall be allowed by special use permit in the C1A district.

Section 35-322. C2 COMMERCE DISTRICT.

1. Permitted Uses

- a. The retail sale of food.
- b. Eating establishments, provided they do not offer live entertainment and further provided that the category does not permit drive-in eating places and convenience-food restaurants.
- c. The following uses:
 - 1) The retail sale of heating and plumbing equipment, paint, glass, and wallpaper, electrical supplies, and building supplies.
 - 2) The retail sale of tires, batteries and automobile accessories and marine craft accessories.
 - 3) The retail sales of apparel and related accessories.
 - 4) The retail sale of furniture, home furnishings and related equipment.
 - 5) The retail sale of miscellaneous items such as the following:
 - Drugs and proprietary items
 - Liquors
 - Antiques and secondhand merchandise
 - Books and stationery
 - Garden supplies
 - Jewelry
 - Flowers and floral accessories
 - Cigars and cigarettes
 - Newspapers and magazines
 - Cameras and photographic supplies
 - Gifts, novelties and souvenirs

Pets
Optical goods
Sporting goods and bicycles

- d. Service/office uses described in Subsection 1(b) through 1(u), Subsection 1(w), and Subsection 3(c) of Section 35-320.
- e. The following repair/service uses:
 - 1) Electrical repair service shops.
 - 2) Household appliances, electrical supplies, heating and plumbing equipment.
 - 3) Radio and television repair service shops.
 - 4) Watch, clock and jewelry repair service shops.
 - 5) Reupholstery and furniture repair shops.
 - 6) Laundering, dry cleaning and dyeing.
 - 7) Equipment rental and leasing services.
- f. The following medical and health uses:
 - 1) Hospitals, not including animal hospitals.
 - 2) Medical laboratories.
 - 3) Dental laboratories.
 - 4) Nursing care homes, (at not more than 50 beds per acre), provided that these institutions shall where required by state law, or regulation or by municipal ordinance, be licensed by the appropriate state or municipal authority.
- g. The following contract/construction uses:
 - 1) Building construction contractors' offices.
 - 2) Plumbing, heating and air conditioning contractors' offices.
 - 3) Painting, paper hanging and decorating contractors' offices.

- 4) Masonry, stone work, tile setting and plastering contractors' offices.
 - 5) Carpentering and wood flooring contractors' offices.
 - 6) Roofing and sheet metal contractors' offices.
 - 7) Concrete contractors' offices.
 - 8) Water well drilling contractors' offices.
 - h. Nonresidential educational uses including Area Learning Centers (ALC), post secondary schools, business schools, trade schools and the like, but excluding public and private elementary and secondary schools (K-12).
 - i. Accessory uses, incidental to the foregoing principal uses when located on the same property with the use to which it is accessory. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 3) Outside display and sale of merchandise provided that an administrative permit is first obtained pursuant to Section 35-800 of these ordinances.
 - j. Other uses similar in nature to the aforementioned uses, as determined by the City Council.
 - k. Drop-in child care centers licensed by the Minnesota Department of Public Welfare pursuant to a valid license application, provided that a copy of said license and application shall be submitted annually to the City.
2. Special Requirements
 - a. See Section 35-412 of these ordinances.
 3. Special Uses
 - a. Gasoline service stations (see Section 35-414), motor vehicle repair and auto washes provided they do not abut an R1, R2, or R3 district, including abutment at a street line; trailer rental in conjunction with these uses, provided that there is adequate trailer parking space.

- b. The sale or vending at gasoline service stations of items other than fuels, lubricants or automotive parts and accessories (and other than the vending of soft drinks, candy, cigarettes and other incidental items for the convenience of customers within the principal building) provided adequate parking is available consistent with the Section 35-704, 2 (b) and 2 (c).
- c. Drive-in eating establishments and convenience-food restaurants provided they do not abut an R1, R2, or R3 district including abutment at a street line. (However, convenience food restaurants without drive-up facilities and located within the principal structure of a shopping center of over 250,000 sq. ft. of gross floor area shall be considered a permitted use.)
- d. Eating establishments offering live entertainment; recreation and amusement places such as motion picture theaters and legitimate theater; sports arenas, bowling alleys, skating rinks, and gymnasiums, all provided they do not abut an R1, R2, or R3 district, including abutment at a street line.
- e. The sale of motor vehicles at retail provided the use is conducted on at least a three (3) acre parcel of land containing a structure or structures occupying a minimum of fifteen percent (15%) of said parcel of land.
- f. The out-of-door display and sale of marine craft at retail.
- g. Transient lodging.
- h. Animal hospitals.
- i. Public transportation terminals (excluding truck terminals).
- j. Clubrooms and lodges.
- k. Accessory off-site parking not located on the same property with the principal use, subject to the provisions of Section 35-701.
- l. Sauna establishments and massage establishments, provided they do not abut any residential (R1 through R7) district, including abutment at a street line.
- m. School bus garage facilities provided all storage, including vehicles, and minor servicing and minor repair shall be conducted wholly within an enclosed building and further provided it does not abut any residential (R1 through R7) districts, including abutment at a street line.
- n. Amusement centers provided the property on which the amusement center is to be located is not within 150 feet of any residentially zoned (R1 through R7) property.

- o. Automobile and truck rental and leasing.
- p. Tennis clubs, racket and swim clubs and other athletic clubs, health spas and suntan studios.
- q. Group day care facilities provided that such developments, in each specific case, are demonstrated to be:
 - 1) Compatible with existing adjacent land uses as well as with those uses permitted in the C2 district generally.
 - 2) Complementary to existing adjacent land uses as well as with those uses permitted in the C2 district generally.
 - 3) Of comparable intensity to permitted C2 district land uses with respect to activity levels.
 - 4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.
 - 5) Traffic generated by other uses on the site will not pose a danger to children served by the day care use.

Furthermore, group day care facilities shall be subject to the special requirements set forth in Section 35-412.

Section 35-330. I-1 INDUSTRIAL PARK.

1. Permitted Uses

- a. The following manufacturing activities:
 - 1) Food and kindred products as illustrated by:
 - Dairy products
 - Bakery products
 - Confectionery and related products
 - Beverages, including beer, wine, and distilled alcohol
 - Macaroni, spaghetti, and noodles
 - 2) Apparel and other finished products made from fabrics, leather, and similar materials.

- 3) Lumber and wood products, except saw mills and planing mills producing a dimensioned lumber.
 - 4) Furniture and fixtures.
 - 5) Converted paper and paperboard products (as opposed to paper and paperboard manufacturing).
 - 6) Printing and publishing and allied industries.
 - 7) Chemicals and allied products as follows:
 - Drugs
 - Soaps, detergents and cleaning preparations
 - Perfumes, cosmetics and other toilet preparations (compounding and packaging only)
 - 8) Miscellaneous plastic products.
 - 9) Fabricated metal products as illustrated by:
 - Office computing and accounting machines
 - Household appliances
 - Electrical lighting and wiring equipment
 - Communication equipment, including radio and television receiving sets
 - Electronic components and accessories
 - Screw machine products
 - 10) Professional, scientific, electronic and controlling instruments, photographic and optical goods, watches and clocks.
 - 11) Miscellaneous manufacturing such as jewelry and silverware, musical instruments and parts, toys, amusement, sporting and athletic goods and pens, pencils and other office and artistic material
 - 12) Assembly of electric powered vehicles.
 - 13) Adult establishments.
- b. The following wholesale trade activities:
- 1) Automotive equipment
 - 2) Drugs, chemicals and allied products

- 3) Dry goods and apparel
- 4) Groceries and related products
- 5) Electrical goods
- 6) Hardware, plumbing, heating equipment and supplies
- 7) Machinery, equipment and supplies
- 8) Other wholesale trade similar in nature to the aforementioned uses such as paper and paper products, furniture, and home furnishings, and beer, wine and distilled alcoholic beverages, but expressly excluding petroleum bulk stations and scrap and waste materials and similar uses.

c. The following service activities:

- 1) Laundrying, dry cleaning and dyeing
- 2) Contract construction
- 3) Kennels
- 4) Veterinarian and animal hospitals

d. Public transportation terminals (excluding truck terminals).

e. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory. Such accessory uses to include without being restricted to the following:

- 1) Offstreet parking and offstreet loading.
- 2) Signs as permitted in the Brooklyn Center Sign Ordinance.
- 3) Storage of raw materials, work in process and inventory, provided such storage is within completely enclosed buildings.

f. Other uses similar in nature to the aforementioned uses, as determined by the City Council.

2. Special Requirements

a. See Section 35-413 of these ordinances.

3. Special Uses

- a. Foundries, provided that the foundry operation is a necessary incident to a principal use permitted in the I-1 district.
- b. Textile mills.
- c. Retail sales of products manufactured, processed, warehoused, or wholesaled on the use site.
- d. Accessory off-site parking not located on the same property with the principal use, subject to the provisions of Section 35-701.
- e. Those commercial developments which, in each specific case, are demonstrated to the City Council to be:
 - 1) Compatible with existing adjacent land uses as well as with those uses permitted in the I-1 district generally.
 - 2) Complementary to existing adjacent land uses as well as to those uses permitted in the I-1 district generally.
 - 3) Of comparable intensity to permitted I-1 district land uses with respect to activity levels.
 - 4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon the industrial park or the community.

and, which are described in Section 35-322, Subsection 1 d, e (subparts 1-6), f, (subparts 2 and 3), g through j; 3 m and 3 p. Such commercial developments shall be subject to I-1 district requirements of Section 35-400 and 35-413 and shall otherwise be subject to the ordinance requirements of the use classification which the proposed development represents.

- g. Warehousing and storage uses which, in each specific case, are demonstrated to the City Council to be:
 - 1) Compatible with existing adjacent land uses as well as with those uses permitted in the I-1 district generally.
 - 2) Of comparable intensity to permitted I-1 district land uses with respect to activity levels.

provided such uses shall adhere to applicable requirements in the I-1 district and shall not involve maintenance or servicing of vehicles on the site.

- h. Other noncommercial uses required for the public welfare as determined by the Council, including accessory outside storage of materials when screened from public view by an opaque wall.
- i. Outdoor storage and display of materials, equipment, and products accessory and necessary to a principal or permitted use subject to the following standards:
 - 1. The items in the area designated on the site plan for outdoor storage or sales display area shall be effectively screened from view from adjacent public rights-of-way or adjacent properties by a solid wall or fence constructed of wood, masonry or other durable materials, or a combination of fence, berm and landscaping approved by the City Council.
 - 2. Allowable areas used for outdoor storage or display areas on an individual site shall not exceed fifteen percent (15%) of the gross floor area of the principal building.
 - 3. Outdoor storage or sales display area shall not be located within any front yard or corner side yard abutting a public right-of-way, or within the buffer setback areas as defined under Section 35-413, Subsection 1. a, b, c, and d.
 - 4. Height of stacked or stored materials or equipment in the storage area shall not exceed the height of the screening fence or height levels approved by the City Council.
 - 5. Outdoor areas shall not be used for the storage of junk or inoperable vehicles, trash, debris, or any nuisance items as defined in the City Code.
 - 6. The storage of hazardous liquids, solids, gases or wastes is strictly prohibited, unless authorized by the city's Building Official and Fire Chief, and approved by the City Council.
 - 7. The outdoor storage area shall not be within or interfere with designated parking or drive aisles areas required by City Code Section 35-700 Off-Street Parking Requirements.
 - 8. Any new or additional lighting installed to illuminate the storage area must be down-cast, cut-off style light fixtures, with a photometric plan approved by the City Council.

9. The storage area shall consist of a concrete or bituminous surface. The property owner or responsible tenant shall keep the outdoor storage areas free of refuse, trash, debris, weeds, and waste fill.
10. Any storage or placement of materials outside of the designated area shall be a violation of the City Code.
11. A detailed site plan specifically delineating the storage area, including the landscaping and lighting plans for said areas, must be approved by the City Council.

Section 35-331. I-2 GENERAL INDUSTRY.

1. Permitted Uses

a. The following manufacturing activities.

1) Food and kindred products as illustrated by:

Dairy products
Bakery products
Confectionery and related products
Beverages, including beer, wine, and distilled alcohol
Macaroni, spaghetti and noodles

2) Textile mill products.

3) Apparel and other finished products made from fabrics, leather and similar materials.

4) Lumber and wood products, except saw mills and planing mills producing dimensioned lumber.

5) Furniture and fixtures.

6) Converted paper and paperboard products (as opposed to paper and paperboard manufacturing).

7) Printing, publishing and allied industries.

8) Chemicals and allied products as follows:

Drugs
Soaps, detergents and cleaning preparations, perfumes, cosmetics and other toilet preparations (compounding and packaging only)

- 9) Miscellaneous plastic products.
- 10) Fabricated metal products as illustrated by:
 - Office computing and accounting machines
 - Household appliances
 - Electrical lighting and wiring equipment
 - Communication equipment, including radio and television receiving sets
 - Electronic components and accessories
 - Screw machine product
 - Coating, engraving and allied services
- 11) Professional, scientific, electronic and controlling instruments, photographic and optical goods, watches and clocks.
- 12) Miscellaneous manufacturing goods such as jewelry and silverware, musical instruments and parts, toys, amusement, sporting and athletic goods and pens, pencils and other office and artistic materials.
- 13) Assembly of electric powered vehicles.

b. The following wholesale trade activities:

- 1) Motor vehicles and automotive equipment.
- 2) Drugs, chemicals and allied products.
- 3) Dry goods and apparel.
- 4) Groceries and related products.
- 5) Electrical goods.
- 6) Hardware, plumbing, heating equipment and supplies.
- 7) Machinery, equipment and supplies.
- 8) Other wholesale trade similar in nature to the aforementioned uses such as paper and paper products, furniture and home furnishings and beer, wine, and distilled alcoholic beverages, but expressly excluding petroleum bulk stations and scrap and waste materials and similar uses.

- c. The following service activities:
 - 1) Laundrying, dry cleaning and dyeing.
 - 2) Warehousing and storage.
 - 3) Automobile and truck repair and wash.
 - 4) Contract construction.
 - 5) Kennels.
 - 6) Veterinarian and animal hospitals.
 - 7) Automobile and truck rental and leasing.
 - 8) Gasoline service stations (See Section 35-414), motor vehicle repair and auto washes provided they do not abut an R1, R2, or R3 district, including abutment at a street line; trailer rental in conjunction with these uses, provided that there is adequate trailer parking space.
- d. Truck terminals or exchange stations.
- e. Public transit terminals.
- f. Accessory uses incidental to the foregoing principal uses when located upon the same property with the use to which it is accessory. Such accessory uses to include but not be restricted to the following:
 - 1) Off-street parking and off-street loading.
 - 2) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 3) Storage of materials, provided that when the use abuts or is adjacent to any residential zone such storage shall be within completely enclosed buildings or effectively screened by a solid wall or fence, including solid entrance and exit gates not less than six feet nor more than eight feet in height.
- g. Other uses similar in nature to the aforementioned uses, as determined by the City Council.

2. Special Requirements

- a. See Section 35-413 of these ordinances.

3. Special Uses

- a. Foundries, provided that the foundry operation is a necessary incident to a principal use permitted in the I-2 district.
- b. Retail sales of products manufactured, processed or wholesaled at the use site.
- c. Accessory off-site parking not located on the same property with the principal use, subject to the provisions of Section 35-701.

Section 35-340. O-1 PUBLIC OPEN SPACE DISTRICT.

1. Permitted Uses

- a. Public parks, playgrounds, athletic fields, and other recreational uses of a noncommercial nature.
- b. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory but not including any business or industrial use. Such accessory uses to include but not be restricted to the following:
 - 1) Off-street parking.
 - 2) Public recreational buildings and parks, playgrounds and athletic fields.
 - 3) Signs as permitted in the Brooklyn Center Sign Ordinance.

Section 35-341. O-2 PUBLIC AND PRIVATE OPEN SPACE DISTRICT.

1. Permitted Uses

- a. Public parks, playgrounds, athletic fields and other recreational uses of a noncommercial nature.
- b. Commercial recreational facilities of a semi-open nature such as golf courses and golf driving ranges.
- c. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory but not including any business or industrial uses. Such accessory uses to include but not be restricted to the following:
 - 1) Off-street parking.

- 2) Public recreational buildings and parks, playgrounds and athletic fields.
- 3) Signs as permitted in the Brooklyn Center Sign Ordinance.

Section 35-355. PLANNED UNIT DEVELOPMENT.

Subdivision 1. Purpose.

The purpose of the Planned Unit Development (PUD) district is to promote flexibility in land development and redevelopment, preserve aesthetically significant and environmentally sensitive site features, conserve energy and ensure a high quality of design.

Subdivision 2. Classification of PUD Districts; Permitted Uses; Applicable Regulations.

- a. Upon rezoning for a PUD, the district shall be designated by the letters "PUD" followed by the alphanumeric designation of the underlying zoning district which may be either the prior zoning classification or a new classification. In cases of mixed use PUDs, the City Council shall, whenever reasonably practicable, specify underlying zoning classifications for the various parts of the PUD.

When it is not reasonably practicable to so specify underlying zoning classifications, the Council may rezone the district, or any part thereof, to "PUD-MIXED."

- b. Regulations governing uses and structures in PUDs shall be the same as those governing the underlying zoning district subject to the following:
 1. Regulations may be modified expressly by conditions imposed by the Council at the time of rezoning to PUD.
 2. Regulations are modified by implication only to the extent necessary to comply with the development plan of the PUD.
 3. In the case of districts rezoned to PUD-MIXED, the Council shall specify regulations applicable to uses and structures in various parts of the district.

- c. For purposes of determining applicable regulations for uses or structures on land adjacent to or in the vicinity of the PUD district which depend on the zoning of the PUD district, the underlying zoning classification of PUD districts shall be deemed to be the zoning classification of the district. In the case of a district zoned PUD-MIXED, the underlying zoning classification shall be deemed to be the classification which allows as a permitted use any use which is permitted in the PUD district and which results in the most restrictive regulation of adjacent or nearby properties.

Subdivision 3. Development Standards.

- a. A PUD shall have a minimum area of one acre, excluding land included within the floodway or flood fringe overlay districts and excluding existing rights-of-way, unless the City finds that at least one of the following conditions exists:
 - 1. There are unusual physical features of the property or of the surrounding neighborhood such that development as a PUD will conserve a physical or terrain feature of importance to the neighborhood or community;
 - 2. The property is directly adjacent to or across a public right-of-way from property which previously was developed as a PUD and the new PUD will be perceived as and function as an extension of that previously approved development; or
 - 3. The property is located in a transitional area between different land uses and the development will be used as a buffer between the uses.
- b. Within a PUD, overall density for residential developments shall be consistent with Section 35-400 of this ordinance. Individual buildings or lots within a PUD may exceed these standards, provided that density for the entire PUD does not exceed the permitted standards.
- c. Setbacks, buffers and greenstrips within a PUD shall be consistent with Section 35-400 to 35-414 and Section 35-700 of this ordinance unless the developer can demonstrate to the City's satisfaction that a lesser standard should be permitted with the addition of a screening treatment or other mitigative measures.

- d. Parking provided for uses within a PUD shall be consistent with the parking requirements contained in Section 35-704 of this ordinance unless the developer can demonstrate to the City's satisfaction that a lesser standard should be permitted on the grounds of the complementarity of peak parking demands by the uses within the PUD. The City may require execution of a restrictive covenant limiting future use of the property to those uses which will continue this parking complementarity, or which are otherwise approved by the City.

Subdivision 4. General Standards.

- a. The City may allow more than one principal building to be constructed on each platted lot within a PUD.
- b. A PUD which involves only one land use or a single housing type may be permitted provided that it is otherwise consistent with the purposes and objectives of this section.
- c. A PUD may only contain uses consistent with the City's Comprehensive Plan.
- d. All property to be included within a PUD shall be under unified ownership or control or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved development plan and site plan.
- e. The uniqueness of each PUD requires that specifications and standards for streets, utilities, public facilities and the approval of land subdivision may be subject to modifications from the City ordinances generally governing them. The City Council may, therefore, approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements where it is found that such are not required in the interests of the residents or of the City, except that these subdivisions and plans must be in conformance with all watershed, state, and federal storm water, erosion control, and wetlands requirements.

Subdivision 5. Application and Review.

- a. Implementation of a PUD shall be controlled by the development plan. The development plan may be approved or disapproved by the City Council after evaluation by the Planning Commission.

Submission of the development plan shall be made to the Director of Planning and Inspection on such forms and accompanied by such information and documentation as the City may deem necessary or convenient, but shall include at a minimum the following:

1. Street and utility locations and sizes;
2. A drainage plan, including location and size of pipes and water storage areas;
3. A grading plan, including temporary and permanent erosion control provisions;
4. A landscape plan;
5. A lighting plan;
6. A plan for timing and phasing of the development;
7. Covenants or other restrictions proposed for the regulation of the development;
8. A site plan showing the location of all structures and parking areas;
9. Building renderings or elevation drawings of all sides of all buildings to be constructed in at least the first phase of development; and
10. Proposed underlying zoning classification or classifications.

Such information may be in a preliminary form, but shall be sufficiently complete and accurate to allow an evaluation of the development by the City.

- b. The Planning Commission shall hold a public hearing on the development plan. Notice of such public hearing shall be published in the official newspaper and actual notice shall be mailed to the applicant and adjacent property owners as required by Section 35-210 of this ordinance. The Planning Commission shall review the development plan and make such recommendations as it deems appropriate regarding the plan within the time limits established by Section 35-210 of this ordinance.
- c. Following receipt of the recommendations of the Planning Commission, the City Council shall hold such hearing as it deems appropriate regarding the matter. The City Council shall act upon the development plan within the time limits established by Section 35-210 of this ordinance.

Approval of the development plan shall constitute rezoning of the property to PUD and conceptual approval of the elements of the plan. In addition to the guidelines provided in Section 35-208 of this ordinance, the City Council shall base its actions on the rezoning upon the following criteria:

1. Compatibility of the plan with the standards, purposes and intent of this section;
2. Consistency of the plan with the goals and policies of the Comprehensive Plan;
3. The impact of the plan on the neighborhood in which it is to be located; and
4. The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, and buffering and landscaping.

The City Council may attach such conditions to its approval as it may determine to be necessary to better accomplish the purposes of the PUD district.

- d. Prior to construction on any site zoned PUD, the developer shall seek plan approval pursuant to Section 35-230 of this ordinance. In addition to the information specifically required by Section 35-230, the developer shall submit such information as may be deemed necessary or convenient by the City to review the consistency of the proposed development with the approved development plan.

The plan submitted for approval pursuant to Section 35-230 shall be in substantial compliance with the approved development plan. Substantial compliance shall mean that buildings, parking areas and roads are in essentially the same location as previously approved; the number of dwelling units, if any, has not increased or decreased by more than 5 percent; the floor area of nonresidential areas has not been increased or decreased by more than 5 percent; no building has been increased in the number of floors; open space has not been decreased or altered from its original design or use, and lot coverage of any individual building has not been increased or decreased by more than 10 percent.

- e. Prior to construction on any site zoned PUD, the developer shall execute a development agreement in a form satisfactory to the City.
- f. Applicants may combine development plan approval with the plan approval required by Section 35-230 by submitting all information required for both simultaneously.
- g. After approval of the development plan and the plan approval required by Section 35-230, nothing shall be constructed on the site and no building permits shall be issued except in conformity with the approved plans.

- h. If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD district, the City Council may initiate rezoning of the property.
- i. Any major amendment to the development plan may be approved by the City Council following the same notice and hearing procedures specified in this section. An amendment shall be considered major if it involves any change greater than that permitted by Subdivision 5d of this section. Changes which are determined by the City Council to be minor may be made if approved by the Planning Commission after such notice and hearing as may be deemed appropriate by the Planning Commission.

Section 35-400. TABLE OF MINIMUM DISTRICT REQUIREMENTS. Every use of land within the City of Brooklyn Center shall conform to the following minimum requirements which are applicable to the Land Use District in which such use is contemplated.

(Note: Refer to applicable footnotes)

<u>District</u>	(1) Land Area (Sq. Ft.)	Width (Feet)	<u>Yard Setbacks (10) (12)</u>		Side	(3) (5)	(2)
			(2) <u>Front</u>	(5) <u>Rear (6)</u>		Side <u>Interior</u>	<u>Corner</u>
R1							
One Family Dwelling (Interior Lot)	9,500/unit	75	35	25 (9)		10	25
One Family Dwelling (Corner Lot)	10,500/unit	90	35	-- (5)		10	25
R2							
One Family Dwelling (Interior Lot)	7,600/unit	60	35	25 (9)		10	25
One Family Dwelling (Corner Lot)	8,750/unit	75	35	-- (5)		10	25
Two Family Dwelling (Interior Lot)	6,200/unit	75	35	40		10	25
Two Family Dwelling (Corner Lot)	6,200/unit	90	35	-- (5)		10	25
R3 (See Sec. 35-410)	5,400/unit	-- (7)	35	40		-- (7)	25
R4 (See Sec. 35-410)	3,600/unit	100	35	40		10	25
R5 (See Sec. 35-410)	2,700/unit	100	35 (4)	40 (4)		15 (4)	25 (4)
R6 (See Sec. 35-410)	2,200/unit	100	50 (4)	40 (4)		20 (4)	50 (4)
R7 (See Sec. 35-410)	1,400/unit	--	50 (4)	40 (4)		20 (4)	50 (4)
C1 (See Sec. 35-411)	-- (11)	150	35	40		10	25
C1A (See Sec. 35-411)	-- (11)	150	35 (4)	40 (4)		10 (4)	25 (4)
C2 (See Sec. 35-412)	--	100	35, (4)	40 (4)		10 (4)	25 (4)
I-1 (See Sec. 35-413)	--	100	50	25		10	50
I-2 (See Sec. 35-413)	--	100	35	25		10	25

1. In the case of residential uses, the minimum land area shall apply to each dwelling unit and shall be computed and adjusted as follows:
 - a. The minimum land area required per unit shall be reduced by 250 square feet per efficiency unit in a multiple family dwelling; and no more than 10 percent of the units in such a dwelling may be efficiency units.
 - b. The required total minimum land area may be reduced 500 square feet for each required parking stall in or under a multiple residence or otherwise completely underground.
 - c. The required total minimum land area shall be increased 250 square feet for each bedroom in excess of two in any one multiple family dwelling unit, and no more than 10 percent of the units in any multiple dwelling shall have more than two bedrooms.
 - d. Where development is contemplated in R3, R4, R5, R6 or R7 Land Use Districts, the minimum land area per dwelling unit may be reduced, as hereinafter provided, upon a finding by the City Council that the following standards have been met:
 - 1) The proposed development is in a section of the City which is in need of public open space facilities.
 - 2) The property owner has demonstrated a willingness to convey lands to the City for public open space purposes.
 - 3) The physical relationship between the buildings within the proposed development and the proposed open space area afford to the occupants thereof a reasonable measure of visual relief from the mass and bulk of the buildings within the development.
 - 4) The physical relationship among the buildings within the proposed development afford to the occupants thereof a reasonable measure of visual relief from the mass and bulk of the buildings within the development.
 - 5) The physical relationship between the buildings within the proposed development and the proposed open space area afford to the occupants thereof a reasonably proximate recreational area.

- 6) The proposed development plan provides, through landscaping, plantings, natural or artificial buffering, or placement, that vehicle storage facilities, vehicle and pedestrian traffic movements, and other accessory structures and uses within the development are designed to avoid disruption of pedestrian activities and allow the maximum use of open space areas, both public and private, for recreational purposes.

Willingness to donate land, as provided in standard 2 above shall be evidenced by land conveyance documents in a form satisfactory to the City Attorney describing the parcels to be conveyed, signed by the fee owner thereof and placed in escrow with the City Attorney at the time of the filing of the Application for Rezoning if a rezoning of lands is contemplated, or, if no rezoning is contemplated, at the time of filing an application for Plan Approval as provided in Section 35-230 of this ordinance.

The amount of reduction in minimum land area requirements shall be calculated in terms of Density Credits. One Density Credit shall consist of the following, respectively:

<u>Zoning District</u>	<u>One Density Credit</u>
R3	8 dwelling units per acre
R4	12 dwelling units per acre
R5	16 dwelling units per acre
R6	20 dwelling units per acre
R7	31 dwelling units per acre

The number of Density Credits allowable shall be determined by the City Council on Plan Approval as provided in Section 35-230 of this ordinance. The number of Density Credits allowable shall be limited as the public interest demands, such limitation being based upon the extent to which the proposed development conforms to the standards as hereinbefore set forth, but in no case shall exceed one Density Credit for each acre of land to be conveyed for public open space purposes.

2. Where no more than three interior lots have frontage on a "cross street," and where the corner lots are developed so that one side yard of each corner lot faces the "cross street," the front yard setback of the interior lots may conform to the side yard setbacks of the corner primary structures. A single family dwelling and permitted accessory structures may be constructed to within fifteen (15) feet of the side corner lot line on a residential corner lot which was of legal record on December 19, 1957, and which does not meet the requirements of this ordinance as to width.
3. a. Accessory buildings must be set back at least three (3) feet from an interior side lot line.

- b. In the case of permitted one family and two family dwellings, the dwelling may be located less than ten (10) feet, but not less than five (5) feet, from not more than one (1) of the established interior side lot lines, provided: (1) All other yard setback requirements are met; (2) The remaining minimum ten (10) foot interior side yard, between the dwellings and the lot line, shall not be used for any accessory building; (3) The exterior wall of the dwelling, facing the interior side yard of less than ten (10) feet, shall contain no openings including doors, or windows, or provision for mechanical equipment.
 - c. The setback distance shall be measured from the exterior wall of the building, and no part of any roof cornice or any appendage to the structure shall project to a point more than one-third the distance of the minimum side yard setback.
 - d. Interior side yard setback requirements may be waived in commercial and industrial districts where abutting commercial and industrial property owners wish to abut along a common wall built along the property line. In other cases, commercial or industrial buildings may be set back less than ten (10) feet, but not less than three (3) feet, from not more than one of the established side lot lines, provided: (1) All other yard setback requirements are met; (2) The remaining minimum ten (10) foot interior side yard, between the building and the lot line, shall not be used for any accessory building; (3) The exterior wall of the building, facing the interior side yard of less than ten (10) feet, shall conform in all respects with the requirements of the State Building Code.
- 4. When a building of 2-1/2 stories or more in an R5, R6, R7, C1A or C2 zone abuts an R1 or R2 zone, the setback of this building from the R1 or R2 property shall be no less than twice the height of the building.
 - 5. In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.
 - 6. Except as otherwise provided, accessory buildings shall be permitted to be constructed to within five (5) feet of the rear property line.
 - 7. Lot width shall be a function of the width of the townhouse unit. Where a townhouse unit abuts any other use, the interior side yard setback shall be a minimum of ten (10) feet.
 - 8. The following shall not be considered as encroachments on yard setback requirements:

- a. In any yards: Off-street open parking spaces; ramps and landings providing handicap accessibility to a principal structure; terraces; awnings; canopies; front entry steps and landings; roofed portico or enclosed vestibule not exceeding 36 sq. ft. in size; chimneys; flagpoles; air conditioner condensers; temporary seasonal swimming pools; opaque fences, hedges, or walls provided they shall not exceed four feet in height in front yards and provided they do not impede vision within the sight triangle described in Section 35-560, or a clear view of the address of the principal building. Fences, hedges, or walls may exceed four feet in height alongside interior property lines. No fence, hedge or wall shall be allowed which constitutes an unsafe sight obstruction for pedestrians or motor vehicle operators.
- b. In rear yards: Recreational and laundry drying equipment; arbors and trellises; balconies limited to 15% of the yard area; breezeways, open porches; detached outdoor living rooms (patios).
- c. In front yards and corner side yards: Decks may encroach up to six feet (6') into the setback areas provided:
 - 1) The entire encroachment, including stairs and attachments, must not exceed 100 square feet in area;
 - 2) The deck provides access to the main entrance of the principal dwelling;
 - 3) The floor of the deck is no higher than the threshold of the main entrance to the principal dwelling;
 - 4) The underside of the deck, when viewed from the street, must be screened with a decorative lattice, skirt board, landscaping or combination of materials to at least fifty percent (50%) opaque; and
 - 5) The deck must be constructed with quality materials, maintained in good condition, and architecturally compatible with the principal dwelling to the greatest extent reasonably possible.
- d. In front yards and corner side yards: Enclosed or Unenclosed Porches may encroach up to ten feet (10') into the setback areas provided:
 - 1) The porch must maintain a minimum 25-foot setback from the front lot line; 10-foot setback from a side interior lot line; and 20-foot setback from any street corner side-yard lot line, with steps and/or accessibility ramps excluded from this provision;

- 2) The width of the porch shall not exceed 20-feet along the front edge of the dwelling, and the maximum allowable size of the porch shall not exceed 200 sq. ft. in area;
 - 3) The floor of the porch is no higher than the threshold of the main entrance;
 - 4) No part of an enclosed porch may be used for year-round living space;
 - 5) In cases where a corner lot dwelling has separate front-door entrances on each street-side, only one porch encroachment is allowed;
 - 6) The underside of the porch must be screened with a decorative lattice, skirt board, landscaping or combination of materials, which is at least fifty percent (50%) opaque when viewed from the street; and
 - 7) All new elements and features of the porch, including the roof, must be architecturally compatible with the principal dwelling.
9. Interior residential lots shall have a minimum rear yard area of 30% of the total lot area, exclusive of permitted accessory structures.
 10. Setbacks along major thoroughfares as designated in Section 35-900 shall in all cases be at least 50 feet, measured from the street right-of-way line, except for commercial buildings located in commercial zoning districts (C1 and C2) or accessory structures or where the property abuts a marginal access street or where the property abuts a noise wall or noise berm constructed by Mn/DOT, or where the City Council finds that excess right-of-way mitigates the effects of traffic noise, dust, and fumes. In such cases, the setback requirements shall be as contained in the Table of Minimum District Requirements.
 11. Service/office (C1, C1A) uses abutting major thoroughfares shall have minimum lot area of one acre.
 12. In instances where an existing one or two family structure in a residential zoning district is deficient in its setback from the front, side, or rear property line by not more than 30% of the setback requirement, the structure may be expanded along the existing building line, provided there is no greater encroachment into the required yard area. This provision in no way permits the expansion of a conforming structure resulting in a setback less than established by this ordinance.

Section 35-405. ADDITIONAL REQUIREMENTS FOR HOME OCCUPATIONS:

1. No home occupation shall produce light, glare, noise, odor or vibration perceptible beyond the boundaries of the lot.

2. No home occupation shall involve the use of any accessory structures or installations.
3. No home occupation shall involve the use of equipment other than that customarily found in a residential dwelling unit.
4. No home occupation shall involve the retail sale of merchandise produced off the lot.
5. No home occupation shall involve the employment on the lot of persons who are not members of the family residing on the lot.
6. No home occupation providing day care shall serve more than twelve (12) children in the R1 district, five (5) children in the R2 and R3 districts, or five (5) children, including children of the family occupying a dwelling unit in other residential districts (R4 through R7). This subsection is not intended to supersede any lease arrangements which may be more restrictive.
7. No home occupation shall cause traffic congestion on the lot containing the home occupation or on the streets adjacent thereto.
8. No automobile parking related to the home occupation shall be permitted on the street.

Section 35-406. ADDITIONAL REQUIREMENTS FOR SPECIAL HOME OCCUPATIONS:

1. All special home occupations shall require approval of a special use permit pursuant to Section 35-220 of the Brooklyn Center Zoning Ordinance.
2. No special home occupation shall use more than one accessory structure or installation and such structure or installation must be a permitted use under Section 35-310 and Section 35-311 of the Brooklyn Center Zoning Ordinance.
3. A special home occupation may use equipment not customarily found in a residential dwelling unit.
4. No special home occupation shall employ, at any one time, more than one person who is not a member of the family occupying the dwelling unit.
5. No special home occupation may include the teaching of more than ten (10) students at one time who are not members of the family occupying the dwelling unit.
6. No special home occupation shall cause traffic congestion on the lot containing the special home occupation or on the streets adjacent thereto.

7. No automobile parking related to the special home occupation shall be permitted on the street provided, however, that upon a finding that the special home occupation is not feasible without on street parking, the City Council may authorize parking on the street based upon a consideration of Section 35-220.2 and of the following:
 - a. The amount of the applicant's street frontage.
 - b. The rights of adjacent residents to park on the street.
 - c. Preservation of the residential character of the neighborhood.
8. No special home occupation shall produce light, glare, noise, odor or vibration perceptible beyond the boundaries of the lot.
9. No special home occupation shall include the retail sale of merchandise produced off the lot.

Section 35-410. SPECIAL REQUIREMENTS IN R3, R4, R5, R6 AND R7 DISTRICTS.

1. All storage shall be contained wholly within an enclosed building.
2. The incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted. Equipment shall be considered "approved" when approved by the zoning official and sanitarian.
3. Where a proposed R3, R4, R5, R6, or R7 development abuts an R1 or R2 district other than at a public street line, buffer provisions shall be established. There shall be provided a protective strip not less than 25 feet wide in the case of R6 and R7 uses and not less than 15 feet wide in the case of R3, R4 and R5 uses. The protective strip shall contain an opaque fence or a Council approved substitute. The protective strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage. The screening device design must be approved by the City Council as being in harmony with the residential neighborhood and providing sufficient screening of the multiple dwelling area. A proposed fence shall be no less than four feet in height and shall not extend within 10 feet of any street right-of-way.
4. No building permit shall be issued until a site and parking layout has been approved as provided in Section 35-230. No parking shall be permitted within 15 feet of the street right-of-way, and the 15 foot area shall be maintained as a green strip.
5. On developments of sufficient magnitude so as to require on-site water main, sewer main, storm sewer, or storm drainage facilities construction, plans for such utilities shall be designed by and installed under the supervision of a civil engineer registered in the State of Minnesota and shall be submitted to and approved by the City Engineer. In cases where on-site utilities construction is required, the land owner or

developer shall enter into a utilities maintenance and inspection agreement with the City, which agreement shall grant the City the right to enter the development to accomplish maintenance, inspections or repairs that are in the public interest.

6. The site landscaping for proposed R3, R4, R5, R6, or R7 developments shall include six inch diameter or large trees (as measured four feet above the ground line) according to the following minimum schedule:

One tree for the first six dwelling units (or portion thereof), one tree for each seven dwelling units (or portion thereof) in excess of six units, but not exceeding 97 units; one tree for each 10 dwelling units (or portion thereof) in excess of 97 units, but not exceeding 197 units; one tree for each 13 dwelling units (or portion thereof) in excess of 197 units.

Tree specie shall be long-lived hardwood as approved by the City Council. Six inch and larger trees existing on the site may be credited toward the foregoing requirements.

7. Security systems and devices. For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple family dwellings, an approved security system shall be provided to control access at each multiple family building hereafter constructed. The security system shall consist of locked building entrances or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead-latch type locks shall be provided with lever knobs (or door knobs) on the inside of building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of a type that are permanently locked from the outside and permanently unlocked from the inside.

Every door that is designed to provide ingress or egress for a dwelling unit within a multiple family building shall be equipped with an approved lock that has a dead-locking bolt that cannot be retracted by end pressure; provided, however, that such doors shall be openable from the inside without the use of a key or any special knowledge or effort.

8. Nursing care homes shall provide one six inch diameter tree per 14 beds. Tree species shall be long-lived hardwood. Six inch and larger trees existing on the site may be credited toward this requirement.

Section 35-411. SPECIAL REQUIREMENTS IN C1 AND C1A DISTRICTS.

1. All storage, display, service, repair or processing shall be conducted wholly within an enclosed building. Semi-trailers may not be used for the out of door storage of materials, equipment, merchandise, inventory, etc.
2. Incineration of waste material shall be conducted in approved equipment located within the building wherein the permitted use is conducted. Equipment shall be considered "approved" when approved by the zoning official and sanitarian.
3. Where a C1 or C1A development abuts an R1, R2 or R3 district other than at a public street line, buffer provisions shall be established. There shall be provided a protective strip not less than 15 feet wide with an opaque fence or wall or a Council approved substitute. The protective strip shall not be used for parking, driveways, off-street loading or storage and shall be landscaped. The screening device design must be approved by the City Council as being in harmony with the residential neighborhood and providing sufficient screening of the C1 or C1A area. A proposed fence or wall shall be no less than four feet in height and shall not extend within 10 feet of any street right-of-way.
4. No building permit shall be issued until a site and parking layout has been approved as provided in Section 35-230. No parking shall be permitted within 35 feet of any major thoroughfare right-of-way or within 15 feet of any other right-of-way and the 35 foot or 15 foot area shall be maintained as a green strip.

The site layout shall include an underground lawn sprinkler system to facilitate maintenance of site landscaping and green areas.

5. On developments of sufficient magnitude so as to require on-site water main, sewer main, storm sewer, or storm drainage facilities construction, plans for such utilities shall be designed by and installed under the supervision of a civil engineer registered in the State of Minnesota and shall be submitted to and approved by the City Engineer. In cases where on-site utilities construction is required, the land owner or developer shall enter into a utilities maintenance and inspection agreement with the City, which agreement shall grant the City the right to enter the development to accomplish maintenance, inspection or repairs that are in the public interest.
6. In the case of group day care facilities, outside recreational facilities shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-400, Footnote 10; shall not have an impervious surface for more than half the playground area; and shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bounded on not more than two sides by parking and driving areas.

7. Nursing care homes shall provide one six inch diameter tree per 14 beds. Tree species shall be long-lived hardwood. Six inch and larger trees existing on the site may be credited toward this requirement.

Section 35-412. SPECIAL REQUIREMENTS IN C2 DISTRICTS.

1. All storage, display, service, repair or processing shall be conducted wholly within an enclosed building or behind an opaque fence or wall not less than six feet high, or high enough to completely screen the storage or other activity from view of the abutting property at ground level. Semi-trailers may not be used for the out of door storage of materials, equipment, merchandise, inventory, etc. The outdoor storage of merchandise during business hours on a private pedestrian walkway located contiguous to the primary building is not prohibited by this section. This requirement shall not apply to the out of door storage and display of new and used motor vehicles or marine craft for which a special use permit has been issued. Neither shall the requirement apply to the out of door retail sale of food at drive-in eating establishments for which a special use permit has been issued. Temporary outdoor storage and display of merchandise may be allowed by permit pursuant to Section 35-800 of this ordinance.
2. Incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted. Equipment shall be considered "approved" when approved by the zoning official and sanitarian.
3. Where a proposed C2 development abuts an R1, R2, or R3 district other than at a public street line, buffer provisions shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, driveways, off-street loading or storage and shall be landscaped. The landscape treatment shall contain an opaque fence or wall which shall not extend within 10 feet of any street right-of-way. The fence or wall design must be approved by the City Council as being in harmony with the residential neighborhood and providing sufficient screening of the commercial area. The fence or wall shall be eight feet in height. The protective strip shall contain no structures other than the approved fence or wall.
4. No building permit shall be issued until a site and parking layout has been approved as provided in Section 35-230. No parking shall be permitted within 15 feet of the street right-of-way and this 15 foot area shall be maintained as a green strip.

The site layout shall include an underground lawn sprinkler system to facilitate maintenance of site landscaping and green areas.

5. On developments of sufficient magnitude so as to require on-site water main, sewer main, storm sewer, or storm drainage facilities construction, plans for such utilities shall be designed by and installed under the supervision of a civil engineer registered in the State of Minnesota and shall be submitted to and approved by the City Engineer. In cases where on-site utilities construction is required, the land owner or developer shall enter into a utilities maintenance and inspection agreement with the City, which agreement shall grant the City the right to enter the development to accomplish maintenance, inspections or repairs that are in the public interest.
6. Access from a local street intended primarily to serve residential development may only be allowed upon a finding by the City Council that such access will not negatively affect the residential character of that neighborhood.
7. In the case of group day care facilities, outside recreational facilities shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-400, Footnote 10; shall not have an impervious surface for more than half the playground area; and shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bounded on not more than two sides by parking and driving areas.

Section 35-413. SPECIAL REQUIREMENTS IN I-1 AND I-2 DISTRICTS.

1. Buffer and Setback

Where a proposed I-1 or I-2 development abuts any residential district (R1 through R7) either at a property line or a public street line, buffer provisions shall be established according to the following:

- a. Where I-1 or I-2 abuts R1, R2, or R3 at a property line, the protective strip shall be no less than 100 feet in width. The protective strip shall not be used for parking, driveway, off-street loading or storage and shall be landscaped. Parking may be permitted in the buffer strip where an I-1 or I-2 use abuts an institutional use provided it does not extend to within 15 feet of the property line.

The landscaped treatment shall contain an opaque fence or wall which shall not extend within 10 feet of any street right-of-way. The fence or wall design must be approved by the City Council as being in harmony with the residential neighborhood and providing sufficient screening of the industrial area. The fence or wall shall be eight feet in height. The protective strip shall contain no structures other than the approved fence or wall.

- b. Where I-1 or I-2 abuts R1, R2, or R3 at a public street line, the protective buffer strip shall be no less than 50 feet in width, shall contain no structures other than screening devices, shall not be used for parking, off-street loading, storage, or any other industrial activity, and shall be landscaped. Parking may be permitted in the buffer strip where an I-1 or I-2 use abuts an institutional use provided it does not extend to within 15 feet of the property line. Activity areas shall be effectively screened from view of the residential district in a manner to be approved by the City Council.
- c. Where I-1 or I-2 abuts R4, R5, R6, or R7 at a property line, the protective buffer strip shall be no less than 50 feet in width, shall contain no structures other than screening devices, shall not be used for off-street loading, storage or any other industrial activity, and shall be landscaped. Parking may be permitted in the buffer strip provided it does not extend to within 15 feet of the property line. Activity areas shall be effectively screened from view of the residential district in a manner to be approved by the City Council.
- d. Where I-1 or I-2 abuts R4, R5, R6, or R7 at a public street line, the protective buffer strip shall be no less than 25 feet in width, shall contain no structures other than screening devices, shall not be used for parking, off-street loading, storage, or any other industrial activity, and shall be landscaped. The activity areas shall be effectively screened from view of the residential district in a manner to be approved by the City Council.

2. Explosives

No activities involving the storage, utilization or manufacture of materials or products which could be detonated shall be permitted except such as are specifically licensed by the City Council. Such prohibited materials shall include but not be confined to: all primary explosives, such as lead oxide and lead sulphate; all high explosives and boosters such as TNT and RDS, tetryl and ammonium nitrate; propellants and components thereof such as nitrocellusous, black powder, ammonium perchlorate and nitro glycerin, blasting explosives such as dynamite powder, magnesium, potassium chlorite, potassium permanganate, potassium nitrate, and potassium nitrite and reactive propellant materials.

3. Noise

Noise shall not exceed 40 decibels on any octave band frequency measured at any point along the property line of the use and operation. Decibel level shall be measured by equipment meeting the specifications of the American Society for Testing and Materials.

4. Vibration

No activity or operation shall at any time cause earth vibrations perceptible beyond the limits of the immediate site on which the operation is located.

5. Incineration

The incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted. Equipment shall be considered "approved" when approved by the Zoning Official and the Sanitarian.

No smoke or other effusive or particulate matter shall be discharged more opaque or dark than the No. 1 classification of the Ringelman Smoke Chart published by the United States Bureau of Mines. Measurements shall be at the point of emission. No solid or liquid particulars of any type shall be emitted in such concentration that they become detectable at the limits of the immediate site.

6. Odor

None of the uses shall at any time cause the discharges of toxic, noxious or odorous matters in such concentrations as to be detectable beyond the limits of the immediate site.

7. Glare and Heat

Glare and heat whether directed or reflected shall not be detectable beyond the limits of the immediate industrial site from which it originates.

8. Wastes

All solid waste materials, debris, refuse or garbage not disposed of through the public sanitary sewage system shall be kept in a completely enclosed building or properly contained in a closed container designed for such purposes. All wastes shall be treated in compliance with existing legislation.

9. Outdoor Storage and Outdoor Sales Display Areas

In the I-1 Industrial Park District all production, storage, servicing, or merchandising, except off-street parking and off-street loading shall be conducted within completely enclosed buildings, except outdoor storage areas or outdoor sales display areas allowed by special use permit in the I-1 District must comply with the provisions of Section 35-330, Subsection 3.i.

In the I-2 General Industry District, outdoor storage is subject to the provisions of Section 35-331, Subsection 1.f.

Semi-trailers, commercial shipping containers, or commercial moving and storage containers, may not be used for the outdoor storage of materials, equipment, merchandise, inventory, etc., except within an approved outdoor storage area. Fuel storage or storage of materials associated with a noncommercial use required for the public welfare which is not located within a completely enclosed building or buried below grade shall be completely screened from view utilizing earth or opaque structural materials. Said screening device shall be appropriately landscaped and shall be esthetically compatible with other structures and landscaping on the site.

Detailed plans for said screening shall be submitted to and approved by the City Council.

10. Lakeshore Setback

No industrial activity shall extend within 50 feet of a lakeshore or a natural drainage way.

11. Site Layout

No building permit shall be issued until a site and parking layout has been approved as provided in Section 35-230. No parking shall be permitted within 15 feet of the street right-of-way and this 15 foot area shall be maintained as a green strip.

The site layout shall include an underground lawn sprinkler system to facilitate maintenance of site landscaping and green areas.

12. Compliance

None of the permitted uses in either the general industrial district or the industrial park district, during the period of their operations, shall fail to satisfy any of the standards set forth above. The city manager or designee shall be responsible for determining compliance with those standards and shall personally visit any site of alleged noncompliance. Upon making a determination of noncompliance, the city manager shall order the violator to discontinue the process causing the noncompliance.

Prior to the resumption of the process, it shall be the responsibility of the violator to present to the city manager such evidence as is necessary to show compliance.

13. Utilities

On developments of sufficient magnitude so as to require on-site water main, sewer main, storm sewer, or storm drainage facilities construction, plans for such utilities shall be designed by and installed under the supervision of a civil engineer registered in the State of Minnesota and shall be submitted to and approved by the City Engineer. In cases where on-site utilities construction is required, the land owner or developer shall enter into a utilities maintenance and inspection agreement with the City, which agreement shall grant the City the right to enter the development to accomplish maintenance, inspections or repairs that are in the public interest.

Section 35-414. SPECIAL REQUIREMENTS FOR AUTOMOBILE SERVICE STATIONS. Automobile service stations pose particular problems in achieving compatibility with abutting and adjacent land uses because of potentially detrimental aspects of their operation. The problem is basically both functional and esthetic involving traffic hazards, noise, light glare at night, outdoor storage of merchandise, poor architectural design, indiscriminate advertising, etc., all of which contribute to less enjoyment and use of and reduction of property values in surrounding properties. It is hereby determined that the general welfare will be better served by minimizing adverse functional and esthetic conditions which may result from operation of automobile service stations and that the use, enjoyment, and improvement of surrounding property will be enhanced by the following requirements:

1. Automobile service stations must front, and the primary building face, on a street designated by the City Council as a major thoroughfare. The minimum width of the use site shall be 130 feet and the minimum area shall be 20,000 square feet.
2. No service station shall be constructed on a parcel which abuts an R1, R2, or R3 district including abutment at a street line. For the purpose of this paragraph, a parcel which adjoins another parcel at one corner will be deemed to abut.
3. Prior to any construction, the owner or developer shall comply with the requirements of Section 35-230 which relates to approval of plans. Any construction must conform to the drawings and specifications as approved by the City Council. In evaluating architectural design, the City Council shall follow the principle that the building express sincere concepts and honest construction and be compatible with surrounding buildings. The appearance of the community and landscape is to be disturbed as little as possible. Moreover, the design of the buildings and of the canopy, if there is one, shall be in scale with the surroundings. This subsection shall apply to all exterior additions or alterations including accessory structures and signs.
4. No driveway curb opening will be permitted within 40 feet of the intersection of the property lines of a corner use site. The maximum right angle width of any driveway shall be thirty feet at the property line. No driveway shall be located within 50 feet of another driveway at the property line on the same use site, or be flared outward on the boulevard in such a way as to encroach upon the boulevard or abutting property.

5. Provisions shall be made for an unobstructed area free of all vehicles, pumps, signs, displays or other materials which tend to obscure vision where the use site is at the intersection of two streets. The unobstructed area shall be bounded by the street right-of-way lines abutting the lot and a straight line joining points on such street lines, 50 feet from the point of intersection of the street right-of-way lines. This is not intended to preclude one identification sign which is 10 feet or more above the street grade level and is supported by a pedestal 12 inches or less in diameter.
6. Facilities for chassis and gear lubrication must be enclosed within the principal building. Vehicle washes may be located in a separate building on the site provided that the materials and exterior treatment for the wash building shall be of the same level of quality as for the principal building. No merchandise may be displayed for sale outside the principal building except within four feet of the building or in pump islands unless enclosed by a structure compatible with the building. No discarded trash, parts, or tires may be stored outside the building unless enclosed by a durable structure compatible with the design of the principal building.
7. Lighting surrounding automobile service stations must meet the provisions of Section 35-712. Lighting design must be submitted to the Planning Commission for recommendations to the City Council and all lighting shall conform to drawings and specifications approved by the City Council.
8. Any required buffer or screening area shall be so constructed and maintained as to keep the beam of automobile headlights from shining into abutting properties.
9. There may be signs as permitted by the Brooklyn Center Sign Ordinance.
10. The following activities are prohibited:
 - a. Body work and painting.
 - b. Motor vehicle parking, except that owners and employees automobiles and a maximum of three service vehicles may be parked. Automobiles being serviced may be parked for a maximum period of 48 hours at any one time.
11. The lawful use of land for any automobile service station existing at the time of the adoption of this ordinance may be continued even if such use does not conform to the above regulations provided that the use is made to conform to these regulations except subsections 1, 2, 3, and 4 above, within 12 months of the date that this ordinance is adopted. Subsection 3 of Section 35-414 shall apply to all exterior additions, alterations, accessory buildings and signs erected or constructed after the effective date of this ordinance.
12. The owner and lessee shall be jointly and severally responsible for seeing that the above regulations are observed.

Section 35-415. SPECIAL REQUIREMENTS FOR TELECOMMUNICATIONS TOWERS AND TELECOMMUNICATIONS FACILITIES. Telecommunications towers and telecommunications facilities may pose particular problems in achieving compatibility with abutting and adjacent land uses. Because of this the City proposes to regulate the placement, construction and modification of telecommunications towers and telecommunications facilities in order to protect the health, safety and welfare of the public while at the same time not unreasonably interfering with the development of competitive wireless telecommunications in the City. Specifically this section of the zoning ordinance proposes to regulate the location of telecommunications towers and telecommunications facilities to protect residential areas from potential adverse impacts, to promote and encourage shared use or co-location of telecommunications towers and antenna support structures and to avoid potential damage to property caused by these facilities by insuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used. It is hereby determined that these objectives can be achieved by implementing the following requirements:

1. Telecommunications towers shall be a permitted use of land in the C-1A, C-2, I-1 and I-2 zoning districts. No telecommunication tower shall be built, erected or constructed upon any parcel of land in the zoning districts set forth above unless a building permit shall have been issued by the City's Building Official.
2. Telecommunications towers are exempt from the maximum height restrictions of the districts where they are located, however, these towers shall not be permitted to exceed the height authorized in the airport safety zones established for the Crystal Airport.
3. No telecommunications tower shall be built, constructed or erected in the City unless such tower is capable of supporting other telecommunications facilities comparable in weight, size, and surface area.
4. Telecommunications towers are prohibited on property the use of which includes the storage, distribution, or sale of volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas, and corrosive or dangerous chemicals.
5. All telecommunications towers shall be setback on all sides a distance equal to the setback requirement for structures in the applicable zoning district. Said towers may not be located in a front yard or side corner yard between a principal structure and a public street.
6. All telecommunications towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the Minnesota State Building Code and all other construction standards set forth by City regulation and Federal and State law.
7. Telecommunications towers shall be separated from residentially zoned lands by a minimum distance of twice the height of the proposed tower.

8. Telecommunications towers shall not be artificially lighted except when required by the Federal Aviation Administration (FAA).
9. Telecommunications towers not requiring FAA painting or marking shall have an exterior finish of stealth design.
10. Any fences constructed around or upon parcels containing telecommunications towers, antenna support structures or telecommunications facilities shall be constructed in accordance with screening requirements in the applicable zoning district unless more stringent fencing requirements are required by FCC regulations. No barbed or razor wire fencing is allowed.
11. Landscaping on parcels containing telecommunications towers, antenna support structures or telecommunications facilities must be in accordance with the landscape point system developed by the Planning Commission. Utility buildings and structures accessory to a tower must be designed to blend in with the surrounding environment and to meet setback requirements as provided for in the applicable zoning district. Ground mounted equipment must be screened from view by suitable vegetation or other screening device.
12. No telecommunications tower, or portion thereof, shall be used for the posting of signs or advertising other than required warning signs. Said signs must be in compliance with the Sign Ordinance.
13. All telecommunications towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order and repair so that the same shall not be a danger to the public.
14. Any telecommunications facilities which are not attached to a telecommunications tower may be permitted as an accessory use to any antenna support structure at least 75 ft. tall regardless of the zoning restrictions applicable to the zoning district where the structure is located. The telecommunications facility and antenna support structure must comply with the provisions of the Minnesota State Building Code. No such structure or facility shall be built, constructed or erected without first having obtained a building permit from the building official.
15. Telecommunications facilities are permitted upon City-owned water towers provided an approved lease agreement with the City has been executed and a building permit from the Building Official has been obtained.
16. Any telecommunications tower, telecommunications facility and/or antenna support structure that is not used for telecommunications purposes for one year shall be deemed abandoned and the property owner shall remove the tower facility and/or antenna in the same manner and pursuant to the procedures as for dangerous or unsafe structures established by Minnesota Statutes, Section 463.15 through 463.26. If the owner fails to remove the tower facility and/or antenna after one year, it may be removed by the City with costs of such removal assessed against the property owner of the site.

Section 35-420. AUTOMOBILE DEALERSHIP OFF-SITE VEHICLE STORAGE.

1. Interim Use. Notwithstanding anything to the contrary in this Code, the off-site storage of new vehicles by an automobile dealership is allowed in the following zoning districts with the issuance of an interim use permit: I-1, I-2, C-2. No interim use permit for automobile dealership off-site storage shall be issued for a site that abuts or is directly across a city or county right-of-way from a residentially zoned (R1 through R7) property.
2. Application. An application for an interim use permit for the off-site storage of vehicles may only be submitted by an automobile dealership located within the city. Said application shall, in addition to the information required on the application form, include the following information:
 - a. A description of the proposed vehicle storage that includes:
 - (i) The maximum number of vehicles to be stored at the off-site location;
 - (ii) An explanation of the purpose for the number of vehicles needing to be stored at the off-site location;
 - (iii) An estimate of how often vehicles will be brought to and removed from the off-site location and the times and days of the week such activities are proposed to occur;
 - (iv) The route to be used to transport vehicles between the automobile dealership and the off-site location, including how the property will be accessed; and
 - (v) A map showing the portion of the property to be used for vehicle storage and showing how the vehicles are to be parked on the property;
 - b. The proposed length of time the property will be used for vehicle storage; and
 - c. Proof of ownership of the property or a copy of the proposed lease allowing use of the property for vehicle storage;
3. Issuance. An application for an interim use permit for the off-site storage of vehicles shall be processed in accordance with Section 35-220, except that the following additional standards shall also be considered:
 - a. The proposed use must conform to the regulations in this Chapter;
 - b. The date or event that will terminate the use can be identified with certainty;

- c. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - d. The applicant agrees to the conditions the City Council imposes on the use.
- 4. Conditions. The City Council may impose any conditions on the interim use permits it issues as it deems are necessary or expedient to protect the public health, safety or welfare, or to ensure the use will not impose additional costs on the public if it is necessary or expedient to take the property in the future. Every interim use permit shall identify the date or event that will terminate the permit. The applicant shall either expressly agree in writing to the conditions imposed on the interim use permit or shall be deemed to have agreed to all such conditions without exception or reservation if the applicant undertakes the use allowed by the permit.
- 5. Performance Standards. In addition to any conditions placed on an interim use permit by the City Council, the following restrictions shall apply to all interim use permits issued to an automobile dealership for off-site vehicle storage:
 - a. Use of the off-site location shall be limited to the storage of operable new vehicles that are available for sale or lease to customers as part of the automobile dealership's business operations;
 - b. Any vehicles stored shall be sold or leased at the automobile dealership located in the city;
 - c. Any off-site location shall conform to Section 35-711 of the Zoning Code, Parking Lot Screening;
 - d. No vehicle repairs, sales, cleaning or detailing shall occur at the off-site location;
 - e. Only employees or contractors of the automobile dealership shall be allowed on the off-site location;
 - f. No signage, other than minimal directional signage internal to the site, shall be permitted on the off-site location;
 - g. The portion of the storage site designated for vehicle storage shall only be located on an approved paved parking lot;
 - h. Vehicles shall only be stored in the designated portion of the storage site and according to the parking plan approved as part of the interim use permit;

- i. Vehicles shall be stored in an orderly fashion with drive aisles, allowing vehicles to enter and exit the site without having to move other vehicles;
 - j. The days and hours during which vehicles may be brought to or removed from the site shall be limited to the days and hours approved in the interim use permit;
 - k. The routes used to transport vehicles to and from the site shall be limited to the routes approved in the interim use permit;
 - l. An interim use permit issued pursuant to this section is not transferable; and
 - m. The use must comply with all applicable provisions of this Code.
6. Renewal. Use of the off-site storage site shall cease, and all vehicles shall be immediately removed, upon the termination or revocation of the interim use permit, or the transfer of the automobile dealership. An automobile dealership issued an interim use permit may apply for a renewal interim use permit, which shall be submitted no fewer than 90 days prior to the termination of the existing permit, and processed in the same manner as a new application. (*Ord. 2018-06, adopted 6/25/18*)

Section 35-500. SUBSTANDARD LOTS AND PARCELS. A lot or parcel which was of legal record within the R1 or R2 zoning district on January 1, 1976, and which does not meet the requirements of this ordinance as to width or area may, nevertheless, be utilized for single family detached dwelling purposes, provided the width is not less than 40 feet at the property line; the lot area is not less than 5,000 square feet; and provided that yard setback requirements for single family detached dwellings are met.

Section 35-510. DRAINAGE WAYS. No obstruction, diversion, bridging or confining of the existing channel of any natural waterway, or any drainage swale approved as a part of the drainage system of a plat in the municipality through which surface water in time of storms naturally flows upon or across the land, shall be permitted without special permit. Before granting a special permit, the zoning official shall first find that the diversion, bridging, etc. will carry the amount of water usually likely to flow. The right is reserved to the municipality as an incident to the development of the municipality, including the construction of streets and gutters, ditches, etc., to cause considerable increases or decreases in the amount of water which would in a state of nature flow into and through such natural water channel or drainage swale.

Section 35-520. FRONTAGE ON A PUBLIC RIGHT-OF-WAY. Every parcel proposed for some use permitted by the terms of this ordinance shall abut a public right-of-way, provided that where unusual circumstances prevail, the City Council may waive this requirement in favor of a reasonable alternative.

If a parcel does not abut a public right-of-way, the applicant may cause an appropriate right-of-way to be dedicated to the municipality provided that any such dedication must conform to the official street layout plan, or in the event the official plan does not comprehend such an appropriate right-of-way, the dedication shall conform to a street layout plan meeting the requirements of Section 15-106 of these ordinances, approved by the Director of Public Works and adopted by the City Council.

Section 35-530. BUILDINGS IN R1 AND R2 DISTRICTS. In R1 and R2 districts every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the zoning official.

1. No accessory building, unless an integral part of the principal building, shall be erected, altered, or moved, within six feet of the principal building, as measured from exterior wall to exterior wall. No accessory building shall be erected, altered, or moved within six feet of another accessory building, as measured from exterior wall to exterior wall.
2. Accessory buildings may not be erected within the side yard adjacent to the street of a corner lot.
3. No accessory building shall exceed 16 feet in height.
4. No accessory building shall be provided with sanitary sewer facilities.
5. No more than two accessory buildings shall be permitted on any one residential premises.
6. The total ground coverage of the accessory building or buildings shall not exceed the ground coverage of the principal building.
7. No basement, cellar, garage, tent, or accessory building shall at any time be used as a residence or dwelling, temporarily or permanently.
8. All dwellings shall be on permanent foundations which comply with the State Building Code and which are solid for the complete circumference of the dwelling, except that accessory uses such as screened or enclosed porches, canopies, decks, balconies, stairs, etc., may be placed on a noncontinuous permanent foundation as approved by the Building Official.
9. The width and the depth of the main portion of any dwelling built after July 23, 1983, shall be no less than 18'.

Section 35-540. COMBINATION OF LAND PARCELS. Multiple parcels of land which are contiguous and adjacent and which are proposed to serve a single development use and which are under common ownership shall be combined into a single parcel through platting or registered land survey.

Section 35-560. VISIBILITY AT INTERSECTIONS. In order to preserve and promote the public safety, nothing shall be erected, placed, planted, maintained, or allowed to grow on a corner lot in any district in such a manner as materially to impede vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersection streets in the triangle bounded by the property lines of such corner lot and a straight line joining points on such property lines 25 feet from their intersection of the property lines.

Section 35-600. OFF-STREET LOADING. In connection with any use which is to be established or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space on the basis of the following minimum requirements:

1. Minimum Number of Berths Required

- a. For retail commerce, wholesale commerce, manufacturing and warehousing:

<u>Sq. Ft. of Aggregate Gross Floor Area</u>	<u>Minimum Required Number of Berths</u>
Under 10,000	0
10,000 to 25,000	1
25,000 to 40,000	2
40,000 to 100,000	3
100,000 to 250,000	4
Each additional 200,000	1

- b. For other uses:

Space adequate for the convenient and uncongested loading and unloading of materials.

2. Location

All loading berths shall be 25 feet or more from the intersection of two street right-of-way lines. Loading berths shall not occupy any yard requirements bordering a street.

3. Size

The first berth required shall not be less than 12 feet in width and 50 feet in length. Additional berths shall not be less than 12 feet in width and 25 feet in length. All

loading berths shall maintain a height of 14 feet or more.

4. Access

Each loading berth shall be located so as to provide convenient access to a public street or alley in a manner which will least interfere with traffic.

5. Accessory Uses

Any area designated as a required loading berth or access drive so as to comply with the terms of this ordinance shall not be used for storage of goods or inoperable vehicles nor shall such area be included as a part of the area necessary to meet the off-street parking area.

Section 35-700. OFF-STREET PARKING REQUIREMENTS. Off-street parking and loading space shall be provided in all districts in accordance with the requirements of this ordinance. There shall be no off-street parking, storage of vehicles nor perimeter parking lot driveway within 15 feet of any street right-of-way and this 15 foot strip shall be planted and maintained as a green strip. In the case of C1 and C1A districts, there shall be no off-street parking nor perimeter parking lot driveway within 35 feet of any major thoroughfare right-of-way and this 35 foot strip shall be planted and maintained as a green strip.

Section 35-701. LOCATION OF OFF-STREET PARKING. All accessory off-street parking facilities required herein shall be located as follows:

1. Spaces accessory to one and two family dwellings shall be on the same lot as the principal use served.
2. Spaces accessory to multiple family dwellings shall be on the same lot as the use served, within 400 feet of the main entrance to the principal building served.
3. Ordinance required parking spaces accessory to uses located in a business or industrial district shall be on the same lot as the uses served unless a special use permit authorizes accessory off-site parking not located on the same property with the principal use. Special use permits authorizing such parking may be issued subject to the following conditions:
 - a. Accessory off-site parking shall be permitted only on properties located in districts zoned Commercial (C1, C1A, C2) and Industrial (I-1, I-2), and on properties which are institutional uses in residential zones. Accessory off-site parking shall be permitted on land having the same or less restrictive zoning classification as the principal use and may be permitted in more restrictive zones if the buffer and setback provisions required of the principal use are met on the property containing the off-site accessory parking. For the purpose of this section of the ordinance, institutional uses in residential zones

shall have the same status as C1 zoned property.

- b. Accessory off-site parking shall be limited to one site per each business or industrial use issued a special use permit.
- c. The distance from the furthest point of the accessory off-site parking property to the site of the principal use shall not exceed 800 feet.
- d. A minimum of 20 parking spaces must be provided on the off-site parking property.
- e. Accessory off-site parking shall be located such that pedestrian traffic will not be required to cross the following roadways to reach the principal use:
 - 1) Major thoroughfares as defined in Section 35-900.
 - 2) 55th and 56th Avenues North between Xerxes Avenue and Brooklyn Boulevard.
 - 3) Summit Drive.
 - 4) 66th Avenue North between Lyndale Avenue North and Camden Avenue North.
- f. Accessory off-site parking spaces may be credited to the parking requirements of the principal use if the off-site parking property is legally encumbered to the sole purpose of providing parking accessory to the principal use.
- g. Accessory off-site parking site improvements shall be provided as required by the City Council.

Section 35-702. PARKING SPACE STANDARDS. The following minimum parking standards are hereby established for all districts other than R1 and R2:

Angle	Space Width	2 Space Lengths Plus One Center Aisle	
		Curb to Curb	With Curb Overlap
90° (Two-way)	8'8"	19.5+19.5+24.0=63'0"	18.0+18.0+24.0=60'0"
60° (One-way)	9'0"	20.0+20.0+20.0=60'0"	18.5+18.5+20.0=57'0"
45° (One-way)	9'2"	18.0+18.0+16.5=52'6"	17.0+17.0+16.5=50'6"
30° (One-way)	9'6"	15.0+15.0+16.5=46'6"	14.0+14.0+16.5=44'6"
0° (Parallel)	8'0" wide by 24'0" long, with 24'0" aisle		

An accurate, dimensioned parking layout which complies with the foregoing shall be submitted for approval with a site plan, and parking arrangements shall thereafter comply with such

layout. Parking spaces shall be clearly designated by lines painted upon the surface of the parking area.

Section 35-703. ACCESS TO PARKING SPACE. In R1, R2, and R3 districts, tandem parking spaces may be permitted. In all other zoning districts, there shall be provision for unobstructed ingress or egress for each single car space. Access to off-street areas shall be restricted to driveways 30 feet or less in width. No two driveways on any single parcel of land in a business or industrial district shall be less than 50 feet apart at the property line.

Section 35-704. MINIMUM PARKING SPACES REQUIRED.

1. Residence

- a. Two spaces per dwelling unit

2. Commerce (Retail and Service/Office)

- a. Eating and drinking places:

One space for every two seats, and one space for every two employees on the average maximum shift. (Parking spaces for "drive-in" customers shall not be credited as a part of the off-street parking area needed to serve the sales operation conducted within the buildings).

- b. Automobile Service Stations:

Three spaces for each enclosed bay plus one space for each day shift employee plus a minimum of two spaces for service vehicles and one additional space for each service vehicle over two in number.

- c. Other retail stores or centers and financial institutions:

Eleven spaces for the first 2,000 square feet of gross floor area or fraction thereof; 5.5 spaces for each additional 1,000 square feet of gross floor area exceeding 2,000 square feet. In multi-tenant retail centers, no additional parking spaces beyond those required by the retail formula shall be required of restaurant uses which altogether occupy not more than 15% of the gross floor area of the center. The parking formula for eating and drinking establishments shall apply proportionately to the seats and employees occupying space in the center over and above 15% of the gross floor area.

- d. Motels and Hotels:

One space for each unit plus one space for each employee on any one shift.

e. Bowling Establishments:

Five spaces for each lane.

Additional parking for food and refreshment facilities shall be determined according to subsection (a) above.

f. Medical and dental clinics:

Three spaces for each doctor or dentist, plus one space for every two employees or one space for each 150 square feet of gross floor area, whichever requirement is the greater.

g. Office Buildings, exclusive of those specific uses otherwise listed in this section:

<u>Building Gross Floor Area (G.F.A.)</u>	<u>Required Spaces</u>
0 – 20,000 sq. ft.	<u>G.F.A.</u> 200
20,000 – 220,000 sq. ft.	<u>G.F.A.</u> .0005 G.F.A. + 190
Over 220,000 sq. ft.	<u>G.F.A.</u> 300

h. Other commercial uses, excluding wholesale:

One space for each 200 square feet of gross floor area.

i. Racquet and swim clubs, athletic clubs, health spas, and the like:

Twenty spaces for the first 1,000 sq. ft. of gross building floor area, plus one space per 300 sq. ft. of gross floor area in excess of 1,000 sq. ft. plus two (2) spaces per outside tennis court.

3. Industry and Wholesale. One space for every two employees based upon maximum planned employment during any work period or one space for each 800 square feet of gross floor area whichever requirement is greater. In the event the latter requirement is greater, adequate land area shall be provided for the required off-street parking area, but improved space need only be provided according to the employees ratio.

4. Miscellaneous

- a. Places of public assembly such as churches, theatres, auditoriums (other than school auditoriums) mortuaries, stadiums, arenas, dance halls:

One space for every three seats. Places of public assembly located in a retail shopping center complex of 50,000 square feet or more, exclusive of the place of public assembly, may have one space for every four seats.

- b. Rest homes, nursing homes, sanitariums, and homes for the aged and for children:

One space for every four beds plus one space for every two employees and one space for each staff doctor.

- c. Hospitals:

One space for every two beds plus one space for every two employees and one space for each staff doctor.

- d. Uses not covered by this list:

Spaces as required for the most similar use as determined by the City Council.

Section 35-710. SURFACING, DRAINAGE AND CURBING. In all districts, other than R1 and R2, all open off-street driving and parking areas shall be improved with a minimum of two inches of hot mixed paver laid bituminous mat, or a comparable concrete slab, placed over a well compacted subgrade and gravel base. The base gravel shall conform to the Minnesota Highway Department specifications for Class 5 gravel.

In other than R1 and R2 districts, drainage plans shall be submitted to and approved by the City Engineer; drainage shall be discouraged across sidewalks or driveways. The perimeters of all driving and parking areas shall be bounded by cast in place concrete curb and gutter which conforms with the Minnesota Highway Department Type "B-612". Other shapes of concrete curb and gutter may be permitted providing the design provides an equal cross-sectional area and is approved in writing by the City Engineer. The concrete used for curbing shall conform to the current City specifications.

Section 35-711. PARKING LOT SCREENING. All open off-street parking areas having more than six parking spaces and all off-street loading and unloading spaces shall be effectively screened from any abutting residential lots by a solid wall or opaque fence six feet high, or by such other device as may be approved by the City Council. The screening device shall not extend within 10 feet of any street right-of-way. Such off-street parking and loading areas within any yards which abuts along a street which is residentially zoned on the side opposite shall be screened from street view by a screening device as approved by the City Council. See Section 35-400 for limitation on the size of such screening devices.

Section 35-712. LIGHTING. All exterior lighting shall be provided with lenses, reflectors, or shades, so as to concentrate illumination on the property of the owner or operator of said

illumination devices. Rays of light shall not pass beyond the property lines of the premises utilizing such illumination at an intensity greater than three footcandles measured at property lines abutting residentially zoned property, or 10 footcandles measured at property lines abutting street right-of-way or nonresidentially zoned property. No glare shall emanate from or be visible beyond the boundaries of the illuminated premises.

"String lighting" as defined in Section 35-900 is specifically prohibited.

Section 35-720. JOINT PARKING FACILITIES. With respect to development complexes, the required parking facilities to serve two or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use. (See Section 35-704:2 (c) regarding restaurant uses in multi-tenant retail centers.) With respect to separate individual establishments, the City Council may approve the joint use of common parking facilities under the following conditions:

1. The building or use for which application is made to utilize the off-street parking facilities provided by another building or use shall be located within 800 feet of such parking facilities; and shall not be separated by a building or use with which it does not share parking facilities in the manner prescribed by this ordinance. In no case will joint parking facilities be located across those streets listed in Section 35-701, Subdivision 3 (f).
2. The applicant shall show and the City Council must determine that there is no substantial conflict in the principal operating hours and parking demands of the two buildings or uses contemplating joint use of off-street parking facilities.
3. A properly drawn legal instrument providing for joint use of off-street parking facilities, duly approved by the City Council as to form and manner of execution shall be filed as an easement encumbrance upon the title of the property.

Section 35-800. ADMINISTRATIVE PERMITS. No person shall use his property or/and assist, countenance or allow the use of his or of another's property located within the municipality for any of the following purposes or uses without first having obtained a permit from the City zoning official. The use shall not for the duration of the permit, considering the time of year, the parking layout for the principal use, the nature of the proposed use and other pertinent factors, substantially impair the parking capacity of the principal use or impair the safe and efficient movement of pedestrian and vehicular traffic either on or off the premises. A waiver from certain provisions of the sign ordinance and from certain parking requirements of this ordinance is implied by the granting of an administrative permit, but only for the duration of the permit and to the extent authorized by said permit.

1. Tents, stands and other temporary structures for church functions, civic functions, charities, carnivals, and similar purposes for a period not exceeding 10 days. The permit fee shall be as set forth by City Council resolution. Certificates of insurance may be required to assure the public welfare.

Off-site signs promoting or announcing civic functions or community events may be authorized by the City Council for a period not exceeding 10 days provided:

- a. The off-site signs are located on private property in the Commercial (C1, C1A, and C2) or Industrial (I-1 and I-2) zoning districts.
- b. The off-site signs are limited to no more than five locations; and
- c. There are no more than one sign per location.

Permits for such signs will be considered independent of any other permits authorized by this section of the ordinance. The permit fee shall be per sign location as set forth by City Council resolution.

2. Out of door retail sale, storage and display of merchandise or offering of services when accessory to or promoting a permitted use or a special use within a nonresidential zoning district as follows:
 - a. The out of door retail sale, display, and storage of nursery and garden merchandise, including lawn furniture and equipment, for a period not to exceed 30 consecutive weeks in any one calendar year. The permit fee shall be as set forth by City Council resolution.
 - b. Miscellaneous out of door retail sales or displays or promotional events for periods not to exceed 10 consecutive days. Two such 10 day permits may be allowed per premises per calendar year. The permit fee shall be as set forth by City Council resolution.
 - c. Gasoline service stations may have miscellaneous out of door retail sales, displays or promotional events for periods not to exceed 30 consecutive days. Three such 30 day permits may be allowed per premises per calendar year. Car wash fund raisers which are not classified as being accessory to or promoting a service station activity are permitted for periods not to exceed 10 consecutive days. Four such 10 day permits may be allowed per premises per calendar year. Permit fees shall be as set forth by City Council resolution.
3. Banners, pennants, balloons, and other attention attracting devices for the purpose of advertising dwelling units for sale or lease in multiple family complexes with at least 36 dwelling units and located adjacent to a major thoroughfare, may be permitted by administrative permit for periods not to exceed 10 consecutive days. Two such 10 day permits may be allowed per premises per calendar year.

Section 35-801. ADMINISTRATIVE PERMIT APPLICATION. Application for permission to engage in a use set forth within Section 35-800 shall be made to the City. The applicant shall set forth his name, address, the location of the proposed use, the duration of the proposed use, the hours

of the proposed use, the nature of the proposed use and shall submit a map or diagram describing the layout of the proposed use. The zoning official may require such further information as will enable him to determine whether the proposed use meets the standards of this ordinance. The zoning official may, subject to the appeal provisions of this ordinance, refuse to issue an administrative permit; provided, however, that the reasons for refusal shall be stated in writing to the applicant, and the applicant shall be notified of the appeal provision.

Section 35-900. DEFINITIONS. The language set forth in the text of this zoning ordinance shall be interpreted in accordance with the following definition. Words used in the present tense shall include the future; words used in the singular include the plural and the plural includes the singular.

Abutting lots or parcels – Any lots or parcels which have a common boundary line.

Accessory Building – A building which is used in relation to an accessory use.

Accessory Eating Establishment – An establishment within a multistory office building or apartment building where food is prepared, sold, and consumed by clients who work or live within the same building or within a complex of which the building is a part. Such establishments do not appeal through signery or other advertising to the general public.

Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Amusement Center – The operation of one or more amusement devices (except those designed for and used exclusively as rides for children) as a principal or secondary use available for use by nonemployees upon commercial premises other than those listed in Section 23-2109 Subd. B of the City ordinances.

Antenna Support Structure – any building or other structure 75 ft. in height or taller other than a telecommunications tower which can be used for location of telecommunications facilities.

Apartment Building – A building with three or more dwelling units attached both horizontally and vertically.

Apartment Building, High Rise – A multiple family dwelling six or more stories in height, whose upper floors are accessible by elevators.

Apartment, Walk-up – A multiple family dwelling whose upper floors are accessible only stairs.

Area Learning Center (ALC) – A non-traditional State approved alternative learning facility for students between the ages of 15 and 21 years that meet the criteria established in M.S. 124D.68.

Basement – means any area of a structure, including crawl spaces, having its floor or base

subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Boarding House – A building within which rooms are rented and meals are provided to two or more persons not members of the owner's or lessee's family.

Building – Any structure erected for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

Business – Any establishment, occupation, employment or enterprise wherein merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

Canopy – An accessory roof-like structure, either attached to or detached from a permitted building, open on all sides, other than where attached; which is located over and designed to provide temporary cover for entrances, exits, walkways, and approved off-street vehicle service areas (such as gasoline stations, drive-in establishments, and loading berths).

Carport – An accessory roof-like structure, either attached to or detached from a permitted building, enclosed on not more than two sides, which is designed to provide cover for approved off-street vehicle parking or vehicle storage space.

Co-Location – the location of wireless telecommunications equipment from more than one provider on one common tower, building or structure.

Condominium Single Family Attached Dwelling Units – Two or more dwelling units horizontally attached in a linear or cluster arrangement, with the individual dwelling units separated from each other by a wall or walls extending from foundation to roof, and with each dwelling unit located upon a separate platted lot. Characteristic features of such a development include individual ownership of dwelling units, and common (nonpublic) ownership of open areas, site amenities, and recreation facilities. A condominium single family attached dwelling unit development includes at least one large common area of open space for aesthetic or recreational purposes.

Convenience-Food Restaurant – An establishment with over 40 dining seats or in a separate building, whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises, and whose design or principal method of operation includes both of the following characteristics:

1. Foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
2. The customer is not served food at his/her table by an employee but receives it at a counter, window, or similar facility for carrying to another location on or off the premises for consumption.

Deck – A horizontal, unenclosed, above-ground, level platform without a roof, which may be attached or unattached to a principal dwelling, including any attached railings, seats, trellises, or other features not more than 36 inches above the platform, and which platform is functionally related to a principal use. An unattached deck is considered an accessory structure in any yard, wetland, floodplain, or river corridor critical area.

Drive-in Establishment – A commercial enterprise that customarily offers goods, services or entertainment to clientele within automobiles (example: automobile service stations, drive-in restaurants, outdoor theaters, and car washes, but not "drive-in" cleaners where the customer must leave his automobile to pick up or deliver goods).

Drop-in Child Care Center – A facility licensed by the Minnesota Department of Public Welfare to provide child care on an irregular basis for periods not to exceed five (5) consecutive hours in a given 24 hour period. Such centers are intended to provide babysitting service for parents who wish to shop and/or pursue leisure activities and do not provide regular care of children while parents travel to a place of work.

Dwelling – A building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings, and multiple family dwellings, including earth-sheltered homes and manufactured homes; but not including hotels, motels, commercial boarding or rooming houses, tourist homes and recreational vehicles, such as travel trailers, camping trailers, pick-up campers, motor coaches, motor homes and buses.

Dwelling, Attached – (Apartment, Condominium, Cooperative, Townhouse or Duplex) - A dwelling joined to one or more other dwellings by party wall or walls.

Dwelling, Detached – A dwelling entirely surrounded by open space.

Dwelling, Multiple Family (apartment and flat) – A residential building or portion thereof containing three or more dwelling units.

Dwelling, One-Family – A residential building containing one dwelling unit.

Dwelling, Two-Family (duplex) – A residential building containing two dwelling units.

Dwelling Unit – A single residential accommodation which is arranged, designed, used or intended for use exclusively as living quarters for one family; must include complete permanently installed kitchen facilities. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

Efficiency Units – A dwelling unit with one primary room which doubles as a living room (in its ordinary sense) and a bedroom and may, in addition, serve for other residential uses.

Equal Degree of Encroachment – A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a

proportionate share of flood flows.

Establishment – Any of the following definitions shall apply:

1. A distinct business entity situated in a single building.
2. A distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade.
3. A distinct business entity contained within a single structure and not separated by walls or other physical barriers, but made distinct due to its existence as a single lease space and operation by separate entrepreneurs, or by its singularity of purpose (such as clothing sales, furniture sales, and so on) carried on by a single or separate proprietors.

Family – Any of the following definitions shall apply:

1. A person or persons related by blood, marriage or adoption, together with his or their domestic servants or gratuitous guests, maintaining a common household in a dwelling unit.
2. Group or foster care of not more than six wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with his or their domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency.
3. A group of not more than five persons not related by blood, marriage, or adoption maintaining a common household in a dwelling unit.

Floor Area, Gross – The sum of the horizontal areas of the several floors of a building or buildings, measured from the exterior faces of the exterior walls or from the center line of party walls separating two buildings. In particular, "gross floor areas" shall include:

1. Basement space, if at least fifty percent of its story height is above the average level of the finished grade.
2. Elevator shafts and stairwells at each floor.
3. Floor space used for mechanical equipment where the structural headroom exceeds 7-1/2 feet, except equipment, open or enclosed, located on the roof, i.e., bulk needs, water tanks, and cooling towers.
4. Attic floor space where the structural headroom exceeds 7-1/2 feet.
5. Interior balconies and mezzanines, where the structural headroom exceeds 7-1/2 feet.

6. Enclosed porches, but not terraces and breezeways.
7. Accessory uses other than floor space devoted exclusively to accessory off-street parking or loading.

But shall not include the following:

1. Garages, open porches, and open patios.

Floor/Area Ratio – The numerical value obtained through dividing the gross floor area of a building or buildings by the total area of the lot or parcel of land on which such building is located.

Garage, Private – An accessory building or an accessory portion of the dwelling building intended for or used to store private passenger vehicles of the families resident upon the premises and in which no business, service or industry connected directly or indirectly with automotive vehicles may be carried on.

Garage - School Bus – A building, or portion of a building, used for the storage of school buses (defined in M.S.A. Section 169.01, Subdivision 6), or where any such vehicles are kept for remuneration or hire, excluding major repair of such vehicles.

Green Strip – An area containing only vegetation such as grass, trees, flowers, hedges, and other related landscaping materials, and maintained expressly for such purpose.

Group Day Care Facility – A facility licensed by the Minnesota Department of Public Welfare to provide child care for six or more children at one time. This term also includes, but is not limited to, facilities having programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers, cooperative day care centers and Head Start programs.

Home Occupation – Subject to the further limitations of Section 35-405 of the Zoning Ordinance, a home occupation is any gainful occupation or profession, carried on within a dwelling unit, by a family member residing within a dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit and the lot upon which it is constructed, including, without limitation, dressmaking, secretarial services, professional offices, answering services, individual music or art instruction, individual hobby crafts, and day care and similar activities.

Home Occupation, Special – Subject to the further limitations of Section 35-406 hereof, and subject to approval by the City Council, a special home occupation is any gainful occupation or profession carried on within a dwelling unit or any permitted accessory buildings or installations on a lot, by a family member residing within the dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit, the accessory structures, and the lot upon which it is constructed, including, without limitation, barber and beauty services, shoe repair, photography studios, group lessons, saw sharpening, motor driven appliances and small engine repair, and similar activities.

Hospital – An institution licensed by the state Department of Health primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Hotel – A building which provides a common entrance, lobby, and stairways, and in which lodging is commonly offered with or without meals for periods of less than a week.

Loading Space – A space accessible from a street, alley, or way in a building or a lot for the use of motor vehicles while loading or unloading merchandise or materials.

Lot – A lot is a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for the purpose of sale or lease or separate use thereof.

Lot Area – The area of a horizontal plane bounded by the front, side and rear lot lines.

Lot, Corner – A lot at the junction of and abutting on two or more intersecting streets.

Lot, Depth – The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot, Interior – A lot other than a corner lot.

Lot Line – A property boundary line of any lot held in a single or separate ownership.

Lot Line, Front – That boundary of a lot which is along an existing or dedicated street. In the case of corner lots, the zoning official shall determine, but only for the purpose of this ordinance, which lot line or lines shall be considered front lot lines; such determination shall not be construed as stating in which direction buildings shall face. In general, the narrower of the lines abutting streets shall be the front line for the above stated purpose.

Lot Line, Rear – The boundary of a lot line which is most distant from and is approximately parallel to the front lot line.

Lot Line, Side – Any boundary of a lot which is not a front or rear lot line.

Lot Width – The horizontal distance between the side lot lines of a lot measured at the front yard setback line.

Manufactured Home – A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning (if any)

and electrical systems contained therein, except that the term includes any structure which meets all the requirements, and which bears the HUD seal of certification of compliance with the federal standards as required by state law.

Massage – Rubbing, stroking, kneading, tapping or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification and for no other purpose.

Marginal Access Street – A minor street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

Motel – A hotel in which rooms are directly accessible to an outdoor automobile parking area.

Nursing Care Home, Rest Home, or Convalescent Home – A facility which provides for the accommodation of persons who are not acutely ill and not in need of hospital care, but who do require nursing care and related medical services. Examples of nursing care include: bedside care and rehabilitative nursing techniques, administration of medicines, a modified diet regime, irrigations and catheterization, application of dressings or bandages and other treatments prescribed by a physician. In addition, the social, religious, education and recreational needs of these patients may be fulfilled.

Outlot – A parcel of land included in a plat which is smaller than the minimum size permitted and which is thereby declared unbuildable until combined with additional land; or a parcel of land which is included in a plat and which is more than double the minimum size and which is thereby subject to future subdivision; or a parcel of land designated as a private roadway in a townhouse development plat.

Parking, Accessory Off-Site – A legal arrangement in which parking spaces, located on property other than that of the principal use, are encumbered solely for use by the off-site principal use. Such spaces may be credited to the ordinance parking requirements of the principal use by a special use permit if the requirements of Section 35-701 are met.

Parking - Joint – An easement agreement over certain property which gives a use located on a nearby or adjacent property the right to make use of parking stalls within the easement area. Such agreements are for the convenience of the respective uses which share the same parking stalls at different times and cannot be used to meet the ordinance parking requirements for the off-site use.

Person – An individual, firm partnership, association, corporation or joint venture or organization of any kind.

Porch, Enclosed – A horizontal roofed platform attached to an entrance of a dwelling, with an integrated wall system consisting of roof support members such as pillars, posts or columns, and which is fully enclosed by walls, screens, windows, or removable storm-windows that cannot be accessed from the outside except through a door that is capable of being locked.

Porch, Unenclosed – A horizontal roofed platform attached to an entrance of a dwelling, with a roof support system consisting of pillars, posts or columns, which may or may not have railings or knee-wall railings no higher than 36-inches from the platform level, and which does not include walls, screens, windows, or doors.

Program, Nonresidential – shall have the meaning given it in M.S. 245A.02, Subd. 10.

Program, Residential – shall have the meaning given it in M. S. 245A.02, Subd. 14.

Public Transportation Terminal – A point of assembly or disassembly of people arriving or departing by means of public transportation.

Public Uses – uses, facilities and properties owned or operated by a school district, a municipality, county, state, or other governmental units, and any religious institutions such as churches, chapels, temples, synagogues and mosques.

Retail Sale – A transfer of title or possession of personal property to a purchaser for a price.

Right-of-way – That property within the boundary of a street or highway easement, or that property owned by a governmental body for roadway purposes; generally the right-of-way extends beyond the actual surfaced portion of the roadway. The street right-of-way line is coincident with the property line of the abutting property, and is the line generally used in calculating setbacks.

Rummage Sale – The infrequent temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing and appliances, provided: the exchange or sale of merchandise is conducted within the residence or accessory structure; the number of sales does not exceed four per year; the duration of the sale does not exceed three consecutive days; any related signery shall conform with the sign ordinance provisions; and the conduct of the sale does not encroach upon the peace, health, safety, or welfare of the citizens of Brooklyn Center.

Sauna – Steam bath, hot water bath, or heat bathing by use of heat lamps, and any such room or facility specially constructed therefor, used for the purposes of bathing, relaxing or reducing utilizing steam, hot air, hot water, or heat lamps as a cleaning, relaxing, or reducing agent.

Service Station (Gas or Filling Station) – Any building or premises used for dispensing, sale or offering for sale at retail any automotive fuels or oils, and where battery, tire, and other similar services may be rendered. When such dispensing, sale or offering for sale of any fuels or oils is incidental to the conduct of a public repair garage, the premises shall be classified as a public repair garage.

Setback – A minimum horizontal distance from a building, hedge, fence, wall or structure to the street or lot line.

Sign – Any message-bearing device for visual communication that is used primarily for the purpose of bringing the subject thereof to the attention of the public including any banner, pennant, valance or similar display.

Special Use – Means a specific type of structure or land use listed in the Zoning Ordinance that may be allowed, but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain standards as detailed in the Zoning Ordinance are, or will be met and (2) the structure and/or land use are compatible with the existing neighborhood.

Stealth – any telecommunications tower or telecommunications facility which is designed to blend into the surrounding environment.

Story – Each of the stages, separated by floors, one above another, of which a building consists.

Street – A public right-of-way for roadway purposes.

Street Line – The common boundary of the street right-of-way and abutting property.

String Lighting – Strings of lights suspended between poles by cables or similar devices generally consisting of a number of bare, incandescent bulbs, but also including those with separate shields suspended from the individual light fixtures.

Structure – Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.

Structural Alterations – Any change, other than incidental repairs, in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or exterior walls.

Telecommunications Facilities – Cables, wires, lines, wave guides, antennae and other equipment or facility associated with the transmission or reception of communications which a person seeks to locate or install upon or near a tower or antenna support structure. The term Telecommunications Facilities shall not include:

- a. Any satellite earth station two meters in diameter or less which is located in an area zoned industrial or commercial;
- b. Any satellite earth station antenna one meter or less in diameter, regardless of zoning category;
- c. Amateur radio operators equipment as licensed by the Federal Communications Commission (FCC)

Telecommunications Tower – A self supporting guyed or mono-pole structure constructed from grade which supports telecommunications facilities. This term shall not include amateur radio operator equipment, as licensed by the FCC or lattice designed towers.

Temporary Seasonal Swimming Pool – A swimming pool that is removed and not in use before May 1 and after September 30.

Thoroughfare, Major – For the purpose of this ordinance, major thoroughfares include all state, county, and federal highways (including interstate freeways), and the following municipal streets:

1. Xerxes Avenue North from T.H. 100 to 59th Avenue North and from F.A.I. 94 to Shingle Creek Parkway.
2. Shingle Creek Parkway from C.T.H. 10 to 69th Avenue North.
3. France Avenue North from T.H. 100 to 50th Avenue North.
4. Humboldt Avenue North from F.A.I. 94 to 70th Avenue North.
5. Freeway Boulevard from Xerxes Avenue North to Humboldt Avenue North.
6. 69th Avenue North from Shingle Creek Parkway to Brooklyn Boulevard.

Townhouse/Garden Apartment – Three or more dwelling units horizontally attached in a linear or cluster arrangements, with the separate dwelling units within the building separated from each other by a wall or walls extending from foundation to roof. Characteristic features of townhouses or garden apartments are their private entrances and small private yards for outdoor living. A townhouse or garden apartment development includes at least one large common area of open space for aesthetic or recreational purposes.

Transient Lodging – A multiple living accommodation such as a hotel or motel in which lodging is commonly offered for periods of less than a week but which may include one dwelling unit for a live-in resident manager.

Used Car Lot – Any land used or occupied for the purpose of buying and selling secondhand passenger cars and/or trucks.

Variance – means a modification of a specific permitted development standard required in an official control, including this ordinance, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, or unique circumstance as defined in Section 35-240.

Vending Machine – Any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food or other goods, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

Yard – An open space which is unoccupied and unobstructed, except as otherwise permitted by this ordinance. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

Yard, Front – A yard extending along the full width of the front lot line between the side lot lines. Notwithstanding provisions to the contrary, on corner lots, the front yard shall generally be the full width of the yard which the front of the house faces, lying between the side lot line and the opposite lot line abutting a public street.

Yard, Rear – A yard extending along the full width of the rear lot line between the two side lot lines.

Yard, Side – A yard extending along the side lot line between the front and rear lot lines.

Zoning Official – The zoning official shall be the City Manager who may designate other employees or agents of the City to perform the duties of the zoning official.

Section 35-1000. ENFORCEMENT. This ordinance shall be administered and enforced by the City Manager who is hereby designated as the Zoning Official. The City Manager may authorize other employees or agents of the City to perform the various duties of the Zoning Official, including the enforcement of this ordinance.

Section 35-1010. SEPARABILITY AND VALIDITY. Every section, provision, or part of this ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision, or part of the ordinance shall be held invalid, it shall not invalidate any other section, provision, or part thereof. Failure to give mailed notice as may be required by this ordinance or any defects in the notice shall not invalidate the proceedings.

Section 35-1020. - INTERPRETATION. In their interpretation, the provisions of this ordinance shall be held to be the minimum requirements necessary to promote and preserve the public health, safety, morals, and welfare.

Section 35-1030. - SUPREMACY. When any condition imposed by any provision of this ordinance upon the use of land or buildings or upon the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by provisions of another City ordinance or resolution, the more restrictive condition shall prevail.

This ordinance is not intended to abrogate any easements, covenants, or any other private agreement, providing that where the provisions of this ordinance are more restrictive than such easements, covenants, or other private agreements, the provisions of this ordinance shall prevail.

Section 35-1040. PENALTIES. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special use permits) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon

conviction thereof by lawful authority, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than ninety (90) days or both, and in addition, shall pay all costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. No provision of this chapter designating the duties of any official or employee of the City shall be so construed as to make such official or employee liable for the penalty provided in this section for failure to perform such duty, unless the intention of the City Council to impose such penalty on such official or employee is specifically and clearly expressed in the section creating the duty.

Section 35-1100. ONE FAMILY RESIDENCE DISTRICT (R1). For the purpose of this ordinance, all of the incorporated territory of the City of Brooklyn Center is hereby established as, and placed in, the One Family Residence District (R1), excepting therefrom such portions of such territory which is specifically placed in and established as some other district.

Section 35-1110. TWO FAMILY RESIDENCE DISTRICT (R2). The following properties are hereby established as being within the (R2) Two Family Residence District zoning classification:

Lots 1 through 5, Block 1, Northtown Plaza 1st Addition.

Lot 3, Block 2, Northtown Plaza 1st Addition.

The southerly 160 feet of Lot 1, Block 2, Ewing Lane Addition lying west of the west line (and west line extended) of Lot 1, Block 1, Chrysler Motors Corporation Addition.

That area bounded by the following: Lakebreeze Avenue on the north; Azelia Avenue on the east; Lakeside Avenue on the south; Twin Lake on the west.

That area bounded by the following: Beginning at the intersection of 55th Avenue and the west right-of-way line of F.A.I. No. 94; thence southerly along the west right-of-way line of F.A.I. No. 94 to the south City limits (centerline of 53rd Avenue); thence west along the south City limits to its intersection with Russell Avenue; thence north along Russell Avenue (and Russell Avenue extended) to its intersection with 54th Avenue (and 54th Avenue extended); thence east along 54th Avenue to its intersection with the west property line (extended) of Lots 1 and 2 of Block 1, Meri-dale Addition; thence northward along the west property line (extended) of Lots 1 and 2 to its intersection with the north property line of Lot 3, Block 1, Krutzig's Addition; thence west along said north property line to its intersection with the east property line of Lot 4 of said Block 1, Krutzig's Addition; thence north along the east property line (extended) of said Lot 4 to its intersection with 55th Avenue: thence east along 55th Avenue to the point of beginning, except those properties explicitly described in Section 35-1130 as belonging the R4 zoning district.

That area bounded by the following: The Mississippi River on the east; the south City limits on the south; F.A.I. No. 94 on the west and north, except those properties explicitly described

in Section 35-1130 as belonging in the R4 zoning district.

Lot 4, Block 1, Horbal Addition.

Lot 1, Block 1, Ryden's 4th Addition.

Lots 8 and 9, Block 5, Sunnybrook Terrace.

All that part of Lots 34 and 35, Auditor's Subdivision No. 216, lying within the following described line: Beginning at a point on the west line of Lot 34, Auditor's Subdivision No. 216, 450 feet south of the northwest corner thereof, thence continue south a distance of 170 feet, thence southeasterly to a point 20 feet east of the southeast corner of Lot 3, Block 4, Balfany's Northport 1st Addition, thence continue east 55 feet, thence south 107.5 feet, thence east 43 feet, thence south 107.5 feet, thence east 17 feet, thence south 75 feet to the north line of Lot 1, Block 5, Balfany's Northport 1st Addition, thence east to the northeast corner of said lot, thence south 75 feet, thence east 79 feet, thence south 150 feet to the north right-of-way line of 53rd Avenue North, thence easterly along said right-of-way line to its intersection with the west right-of-way line of State Highway No. 152, thence northwesterly along the west right-of-way line of State Highway No. 152 to a point on a line parallel with and 450 feet south of the north line of Lot 34, Auditor's Subdivision No. 216, thence west to a point of beginning.

Lots 1 through 8, Block 1 and Lots 1 through 7, Block 2 and Outlots A and B, Bellvue Lane Addition.

Section 35-1120. MULTIPLE FAMILY RESIDENCE DISTRICT (R3). The following properties are hereby established as being within the (R3) Multiple Family Residence District zoning classification:

That part of Tract A, Registered Land Survey No. 595 lying east of the following line: the west property line of Lots 1 through 4, Block 2, Sunrise Manor Addition extended in a straight line to the north line of Tract A, R.L.S No. 595.

The City-owned land situated in that Part of Lot 3, Auditor's Subdivision No. 25, Hennepin County, Minnesota described as follows: Commencing at a Point on the East Line of said Lot 3, 289.74 feet South of the centerline of 69th Avenue North (formerly County Road No. 130); thence West parallel with the centerline of said 69th Avenue North a distance of 150.34 feet; thence North parallel with the East Line of said Lot 3 to the centerline of said 69th Avenue North; thence East along the centerline of said 69th Avenue North to the Northeast Comer of said Lot 3, treating the said centerline of said 69th Avenue North as the North Line of said Lot 3; thence South along the East Line of said Lot 3, 289.74 feet to the Place of Beginning. [Parcel I.D. No. 34-119-21-21-0003 – Addr. 6831 France Avenue North]

Lot 3, Block 1, Brookwood Residences.
 Lot 1, Block 1, Wiensch 1st Addition.
 Lot 1, Block 1, Boulevard Plaza Addition.
 The Ponds Addition, The Ponds Plat Two, The Ponds Plat Three, The Ponds Plat Four, The Ponds Plat Five, The Ponds Plat Six.
 Creek Villas Addition and Creek Villas 2nd Addition.
 Lot 1, Block 1, Marvin Gardens Addition.
 Earle Brown Farm Townhouses Addition.
 Blocks 2, 3, 4, 5, 6, 7, and 8, Earle Brown Farm Estates First Addition. Earle Brown Farm Estates Second Addition, Earle Brown Farm Estates Third Addition, Earle Brown Farm Estates Fourth Addition, Earle Brown Farm Estates Fifth Addition.
 Block 1 and Outlot A, Riverwood Townhomes Addition.
 Northbrook Estates Addition.
 Moorwood Townhouses Addition.
 Outlot A, Twin Lake North Addition.
 That part of Lot 2, Block 1, Twin Lake North Addition embraced within Lot 5 of Aud. Sub. No. 216.
 Hi Crest Square Estates Addition.
 Blocks 1 through 5, Evergreen Estates Addition.
 Blocks 1 through 7 and Lot 3, Block 8, Madsen's Floral Addition.
 Lot 1, Block 1, Boulevard Plaza Condominium Addition.

Section 35-1130. MULTIPLE FAMILY RESIDENCE DISTRICT (R4). The following properties are hereby established as being within the (R4) Multiple Family Residence District zoning classification:

Lot 8, Block 1, Sunset Manor Addition.
 Tracts B and C., Registered Land Survey No. 970.
 That part of Lot 1, Block 2, Ewing Lane Addition, lying north of the south 160 feet thereof, and west of the west line (extended) of Lot 1, Block 1, Chrysler Motors Corporation Addition.
 Lots 4 and 5, Block 1, P.B.C. 1st Addition.
 That part of Lot 27, Auditor's Subdivision No. 216, Lying North of the south 90 feet thereof; east of Registered Land Survey No. 534; south of County Road 10; and west of State Highway No. 152.
 Lot 7, Block 3, Twin Lake Woods 2nd Addition.
 Lot 16, Block 2, Twin Lake Woods 2nd Addition.
 The south 150 feet of Outlot 2, Twin Lake Woods Addition.
 The east 133.03 feet of the west 163.03 feet of the north 150 feet of the south 333 feet of the northwest 1/4 of the southwest 1/4 of the northeast 1/4 of Section 10.
 That area bounded by the following: The north line of the south half of Section 10 on the north; Azelia Avenue on the east; Lakebreeze Avenue on the south; Twin Lake on the west. The west 1/2 of that part of Lot 55, Auditor's Subdivision No. 218 lying west of the centerline of Knox Avenue.
 Lot 1, Block 1, Horbal Addition.

The east 150 feet of Lots 31, 32, and 33 Auditor's Subdivision No. 309; except the north 33 feet of Lot 33.

The west 150 feet of Lots 1 and 2, Auditor's Subdivision No. 309; except the north 30 feet of Lot 1.

Lot 1 of Block 1 and Lot 2 of Block 2, Thomas Construction Company 2nd Addition.

The east 389 feet of that part of Lot 21, Auditor's Subdivision 218 lying west of Russell Avenue North.

That part of Lot 46, Garcelon's Addition to Minneapolis lying west of the east 200 feet thereof, except street.

Lot 1, Block 2, Reidheid's Addition.

The west 1/2 of the north 131.39 feet of the east 1/4 of the northwest 1/4 of the southwest 1/4 of Section 1, Township 118, Range 21, except street.

Lots 1 and 2, Block 1, Ledin Addition.

That part of Lot 22, Garcelon's Addition to Minneapolis, lying south of the north 2 feet thereof, except state highway.

Lot 20, and the north 100 feet of the south 200 feet of the east 15 feet of Lot 38, Garcelon's Addition to Minneapolis, except state highway.

Lots 29 and 30, Block 2, Fairhaven Park Addition.

Lots 13, 14 and 15, Block 4, N. and E. Perkin's Addition to Minneapolis.

Section 35-1140. MULTIPLE FAMILY RESIDENCE DISTRICT (R5). The following properties are hereby established as being within the (R5) Multiple Family Residence District zoning classification:

Lot 1, Block 1, Elnicky's Addition.

That part of the SW 1/4 of the SW 1/4 of Section 27, T119, R21 described as follows: Beginning at the southwesterly corner of Lot 1, Block 1, Realty Terrace on file and of record with the County Recorder, Hennepin County, Minnesota, thence East, assumed bearing, along the south line of said Lot 1, to the southeast corner thereof, thence North for 243 feet, thence northwesterly along tangential curve, concave to the west, having a radius of 175.73 feet and a central angle of 24 degrees, 29 minutes, 14 seconds, for 75.11 feet, thence N 89 degrees, 25 minutes, 18 seconds W for 410.19 feet to the easterly right-of-way of Hennepin County Road No. 152 (a.k.a. Brooklyn Boulevard), thence southeasterly along said right-of-way to point of beginning.

Lots 1 and 2, Block 2, Northtown Plaza 1st Addition.

Lot 2, Block 10, Northgate Addition, except that part of Lot 2, Block 10, Northgate lying northeasterly of the following described line: Beginning at the northwest or more westerly corner of Lot 1, Block 10, said Addition; thence northwesterly and parallel with the southwesterly line of Brooklyn Boulevard to its intersection with the southerly line of 65th Avenue North.

Tracts A through J, Registered Land Survey No. 938.

The south 138 feet of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition; except highway.

Tract A, Registered Land Survey No. 1192.

Tract B, Registered Land Survey No. 1186.

Lot 1, Block 1, Terrace Apartments Addition.

Lots 1 through 4, Block 1, Linden Shores on Twin Lake Addition.

The north 110.02 feet of the east 142.60 feet of the northwest 1/4 of the northeast 1/4 of Section 10.

Lots 1 through 7, Block 1, and Outlot 8, Ryan Lake Terrace Addition.

Tracts B and C, Registered Land Survey No. 1082.

The south 210 feet of the east 435.6 feet of Government Lot 3, Section 10.

That part of Government Lot 3, Section 10, described as follows: Commencing at a point in the south line of Government Lot 3 distant 435.6 feet west from the southeast corner thereof; thence west along the south line of Government Lot 3 to its intersection with the southeasterly line of State Highway No. 100; thence northeasterly along said southeasterly line of Highway No. 100 to its intersection with a line running north parallel with the east line of said Lot 3 from the point of beginning; thence south along such line to the point of beginning.

Lots 1 through 3, Block 1, R. R. McChesney and Sons 2nd Addition.

The west 149.3 feet of that part of Lot 57, Auditor's Subdivision No. 218, lying south of the north 225 feet thereof.

Lot 6, Mendenhall's Outlots.

Lot 8, Mendenhall's Outlots; except highway.

Lots 1 through 7, Block 1, Lyn-River Addition.

Lot 2, replat of part of Block 1, Olson's Island View Terrace Addition.

Lot 1, Block 1, Twin Cities Interchange Park Addition.

Lots 3 through 5, Block 1, and Block 3, Hi Crest Square Addition.

Lot 2, Block 1, Hellsted Addition.

That area bounded by the following: Humboldt Avenues on the east; the south line (extended) of Outlot A, Twin Cities Interchange Park Addition, on the south; the east line of said Outlot A on the west; the south line of Hellsted Addition on the north.

Lot 3, Block 1, Horbal Addition.

Lots 1 through 4, Block 1, Northbrook Terrace Addition.

Lot 1, Block 1, Twin Lake North Addition.

That part of Lot 18 and 19, Auditor's Subdivision No. 216, lying north of County Road No. 10 (Bass Lake Road) which is not included within the plat of Twin Lake North Addition.

The south 1/5 of the east 2 of Lot 1, Mendenhall's Outlots.

Outlots A and B, Wiensch First Addition.

Outlots A and B, Twin Cities Interchange Park Addition.

That part of Government Lot 3, Section 10, Township 118, Range 21, Hennepin County, Minnesota, lying southerly of the following described line: Commencing at the southeast corner of the north 40 acres of said Government Lot 3; thence running southerly along the east line of said Government Lot 3 a distance of 200.62 feet to the actual point of beginning of the line to be described; thence running westerly parallel with the south line of said north 40 acres of Government Lot 3 to the easterly shore line of Twin Lake and there terminating; and lying easterly of the following described line: Beginning at a point of the above described line distant 2150.32 feet westerly of the east line of Government Lot 3; thence running southeasterly at an angle of 63° 6' from the above described line a distance of approximately 519 feet to a point on the south line of Government Lot 3 and there terminating; except that part thereof taken for roadway purposes as shown in document #3292089 in Book 2301 of Deeds, Page 451.

Lot 6, Block 1, Hi Crest Square Addition.

Lot 1, Block 1, Hamm's 2nd Addition.

Section 35-1150. MULTIPLE FAMILY RESIDENCE DISTRICT (R6). The following properties are hereby established as being within the (R6) Multiple Family Residence District zoning classification:

Lots 1 and 2, Block 1, Brookwood Residences.

Section 35-1160. MULTIPLE FAMILY RESIDENCE DISTRICT (R7). The following properties are hereby established as being within the (R7) Multiple Family Residence District zoning classification: Tract B, R.L.S. No. 1543.

Section 35-1170. SERVICE/OFFICE DISTRICT (C1). The following properties are hereby established as being within the (C1) Service/Office District zoning classification:

The west 135 feet of the east 165 feet of the north 150 feet of the south 183 feet of the northwest 1/4 of the southwest 1/4 of the northeast 1/4 of Section 10.

Lots 1 through 4, Block 1, Sunset Manor Addition.

Lot 1, Block 2, Northtown Plaza 1st Addition.

Lot 1, Block 1, Dental Center 2nd Addition.

That area bounded by the following: The south line (and south line extended) of Block 7, Brooklane Addition, on the north; Ewing Avenue on the east; 65th Avenue (as established by Minnesota Highway Department condemnation proceedings) on the south; State Highway No. 152 on the west.

Lots 1 and 3, Block 1, P.B.C. 1st Addition.

Lots 2, Block 6, Wangstad's Brooklyn Terrace Addition.

That part of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition lying north of the south 138 feet thereof.

The north 153.28 feet of the south 536.48 feet of Lot 40, Auditor's Subdivision No. 216; except highway.

The north 76.64 feet of the south 613.12 feet of Lot 40, Auditor's Subdivision No. 216; except highway and road.

That part of Lot 40, Auditor's Subdivision No. 216 lying north of the south 613.12 feet thereof; except highway and road.

That area bounded by the following: Beard Avenue on the east; 59th Avenue on the south; State Highway No. 152 on the west; 60th Avenue on the north.

Lots 5 and 6, Block 4, Grimme's Second Addition; except highway.

The south 82.5 feet of Lot 12, Auditor's Subdivision No. 216, and that part of Lot 12 lying north of south 82.5 feet thereof and east of Pearson's Northport 3rd Addition; except highway.

Tract A, Registered Land Survey No. 1114.

Registered Land Survey No. 597.

That part of Lot 56, Auditor's Subdivision No. 218, described as follows: The west 1/4 of the north 2 of the southwest 1/4 of the southeast 1/4 of the northeast 1/4 of Section 2; except roads.

The north 225 feet of the west 2 of Lot 57, Auditor's Subdivision No. 218; except road.

That part of Lots 9 and 10, Auditor's Subdivision No. 25, described as follows: Commencing at a point in the east line of Lot 10, lying in the centerline of Brooklyn Boulevard distant 967.6 feet northerly along said east line of Lot 10 from the southeast corner thereof; thence southeasterly along said centerline 282 feet; thence west 506 feet parallel with the south line of Lot 10; thence northeasterly in a straight line a distance of 470 feet to the point of beginning; except road and highway.

Lot 1, Block 1, Library Terrace Addition and that part of Lot 29, Auditor's Subdivision No. 216 bounded on the west and the south by the centerline of Northport Drive; on the east by the centerline of State Highway No. 152; and on the north by the south property lines of Lots 3 and 4, Block 7, Northport 1st Addition, extending easterly to the centerline of said State Highway and extending westerly to the centerline of Northport Drive.

Lot 20, Auditor's Subdivision No. 57.

That part of the south 180 feet of the north 450 feet of Lots 34 and 35, Auditor's Subdivision No. 216, Hennepin County, Minnesota, lying south of the following described line: Commencing at the southeast corner of Lot 1, Block 3, Balfany's Northport First Addition to the City of Brooklyn Center, Minnesota, thence northeasterly along the extension of the southeasterly line of said Lot 1, Block 3, a distance of 256.84 feet, thence northeasterly along a tangential curve to the right having a radius of 438.97 feet, a distance of 196.64 feet, thence easterly along the tangent to said curve to the east line of said Lot 35, Auditor's Subdivision No. 216.

Lot 1, Block 1, Earle Brown Farm Estates First Addition.

Lots 1 through 5, Block 1, Northgate Addition; except highway.

Lot 2, Block 1, Hamm's 2nd Addition.

Tract A, Registered Land Survey No. 970.

Lots 1 and 2, Block 1, 7100 Corporate Plaza 2nd Addition.

Lot 3, Block 1, Osseo Schools Willow Lane Addition.

Lot 2, Block 1, CVS Brooklyn Boulevard Addition.

Section 35-1180. SERVICE/OFFICE DISTRICT (C1-A). The following properties are hereby established as being within the (C1-A) Service/Office District zoning classification:

Tract A, Registered Land Survey No. 1142, except that portion described as follows: Beginning at the southeast corner of said Tract A; thence running N23°26'10"E along the southeasterly line of said Tract A a distance of 470.74 feet; thence running N67°45'51"W a distance of 287.27 feet; thence deflecting to the left on a tangential curve having a radius of 230.97 feet (delta angle 24°25'46", tangent 50 feet) for a distance of 98.48 feet; thence running S87°48'23"W, on a tangent to said curve, a distance of 203.26 feet; thence deflecting to the left on a tangential curve having a radius of 47.67 feet (delta angle 64°22'13", tangent 30 feet) for a distance of 53.56 feet; thence running S23°26'10"W a distance of 290.01 feet, more or less, to a point in the southwesterly line of said Tract A, said southwesterly line of Tract A also being the northerly right-of-way line of County Road No. 10; thence running southeasterly along said southwesterly line of Tract A to the point of beginning.

Tract A, R.L.S. 1543.

Lots 1 and 2, Block 2, Brookdale Corporate Center Addition.

Lot 2, Block 1, Brooklyn Farm Plat.

Tracts D and E, R.L.S. No. 1380, except highway.

Section 35-1190. COMMERCE DISTRICT (C2). The following properties are hereby established as being within the (C2) Commerce District zoning classification:

Lot 6, Block 2, Northtown Plaza 1st Addition.

Lot 2, Block 1, Northtown Plaza 2nd Addition.

Lots 1 and 2, Block 1, Northtown Plaza 3rd Addition.

Lot 1, Block 1, Brooklyn Mobil Addition.

Tracts A and B, Registered Land Survey No. 807.

Tract B, Registered Land Survey No. 817.

Tract C, Registered Land Survey No. 817.

That part of Lots 19 and 20, Auditor's Subdivision No. 25, described as follows: Commencing at a point on the west line of Garden City 5th Addition distant 193 feet north from the southwest corner thereof; thence west parallel with the north line of Lawnridge

Addition to the centerline of State Highway No. 152; thence northwesterly along the centerline of said Highway a distance of 128 feet; thence east parallel with the north line of Lawnridge to the west line of Garden City 5th Addition; thence south to the point of beginning, except highway.

Lot 2, Block 1, P.B.C. 1st Addition.

That part of Lots 17 and 18, Auditor's Subdivision No. 25, and of Lot 36, Auditor's Subdivision No. 216 described as follows: Commencing at the northwest corner of the south 20.53 feet of Lot 18, Auditor's Subdivision No. 25; thence east 216 feet along the north line of said south 20.53 feet of Lot 18; thence south at right angles to the south line of Lot 36, Auditor's Subdivision No. 216; thence west along said south line of Lot 36 to the southwest corner thereof; thence northwesterly along the west lines of Lot 36, and Lots 17 and 18, to the point of beginning at the northwest corner of the south 20.53 feet of Lot 18, Auditor's Subdivision No. 25.

That part of Lot 37, Auditor's Subdivision No. 216 described as follows: Commencing at a point in the west line of Lot 37, distant 10 feet north, measured at right angles, from the south line of said Lot 37; thence east parallel with said south line to a point distant 182.5 feet west from the east line of said Lot 37; thence north parallel with said east line a distant of 175 feet; thence west parallel with the north line of Section 3 to the west line of Lot 37; thence southerly to the point of beginning; except highway.

That part of Tract A, R.L.S. No. 1142 described as follows: Beginning at the southeast corner of said Tract A; thence running N23°26'10" E along the southeasterly line of said Tract A a distance of 470.74 feet; thence running N67°45'51"W a distance of 287.27 feet; thence deflecting to the left on a tangential curve having a radius of 230.97 feet (delta angle 24°25'46", tangent 50 feet) for a distance of 98.48 feet; thence running S87° 48'23"W, on a tangent to said curve, a distance of 203.26 feet; thence deflecting to the left on a tangential curve having a radius of 47.67 feet (delta angle 64°22'13", tangent 30 feet) for a distance of 53.56 feet; thence running S23°26'10" a distance of 290.01 feet, more or less, to a point in the southwesterly line of said Tract A, said southwesterly line of Tract A also being the northerly right-of-way line of County Road No. 10; thence running southeasterly along said southwesterly line of Tract A to the point of beginning.

That area bounded by the following: Northway Drive on the north and east; County Road No. 10 on the east and south; Xerxes Avenue on the west.

That area bounded by the following: Shingle Creek (County Ditch No. 13) on the east; County Road No. 10 on the south and west; Northway Drive on the west and north.

That area bounded by the following: County Road No. 10 on the north; Xerxes Avenue on the east; State Highway No. 100 on the south; County Highway No. 152 (Brooklyn Boulevard) on the west.

Tract A, Registered Land Survey No. 1151.

Tract A, Registered Land Survey No. 1082.

That part of the south 31.28 acres of Government Lot 3, Section 10, lying north of the south 436 feet thereof, and easterly of highway.

Lot 1, Block 1, Brookdale First Addition.

Tract D, Registered Land Survey No. 1161.

The south 120 feet of the north 133 feet of the east 150 feet of Lot 34, Auditor's Subdivision No. 218; except highway.

Lot 1, Block 2, Twin Cities Interchange Park Addition.

Lot 1, Block 3, Twin Cities Interchange Park Addition.

Lots 1 through 3, Block 4, Twin Cities Interchange Park Addition.

Tracts B and C, Registered Land Survey No. 1114.

Lot 1, Block 1, SuperAmerica 5th Addition.

Outlot A, Northbrook Center 2nd Addition.

Lot 2, Block 1, Northbrook Center 3rd Addition.

Lot 1, Block 1, SuperAmerica Addition.

Lot 1, Replat of Block 1, Olson's Island View Terrace Addition.

Lots 2 and 3, Block 1, DeMac Addition.

Lot 2, Block 1, Twin Cities Interchange Park Addition.

Lot 1, Block 1, Hi Crest Square Addition.

Lot 5, Block 1, Northbrook Terrace Addition.

Lot 1, Block 1, Hellsted Addition.

Lot 2, Block 1, Horbal Addition.

That part of Lots 32 and 33, Auditor's Subdivision No. 218, lying east of Shingle Creek Parkway and north of Lot 1, Block 1, Brookdale First Addition, and Tract D of Registered Land Survey No. 1161.

Lot 3, Block 3 of the Brooklyn Center Industrial Park, Plat 2.

Lots 8 through 18, inclusive, of Block 1, Lakebreeze Addition.

That area described as: The south 33 feet of the north 233.62 feet of that part of the east 1,013.17 feet of the south 31.28 acres of Government Lot 3 lying west of Highway No. 100; also, the north 200.62 feet of that part of the east 1,263.3 feet of the south 31.28 acres of Government Lot 3 lying west of Highway 100 (more commonly described as Plat 89010, Parcel 2810).

Block 1 and Block 2. Richardson Park Addition.

Tracts A, F, and H, R.L.S. No. 1482.

Tract A, R.L.S. No. 1538.

Tracts D and F, R.L.S. No. 1594.

Section 35-1200. INDUSTRIAL PARK DISTRICT (I-1). The following properties are hereby established as being within the (I-1) Industrial Park District zoning classification:

Tract A, R.L.S. No. 1274.

Tract B, R.L.S. No. 1348.

Tracts A, B, C, D, R.L.S. No. 1360.

Tracts B and C, R.L.S. No. 1382.

Lot 2, Block 1, Berean Addition.

Lots 1 and 2, Block 1, Brooklyn Center Industrial Park, Plat 2.

Lot 3, Block 1, Twin Cities Interchange Park Addition.

Tracts A, B, C, and D, R.L.S. No. 1329.

Tract A, R.L.S. No. 1405.

Tract A, R.L.S. No. 1537.

Tracts A, D, and E, R.L.S. No. 1377.

Section 35-1210. GENERAL INDUSTRY DISTRICT (I-2). The following properties are hereby established as being within the (I-2) General Industry District zoning classification:

Lots 1, 2, and 3 of Block 1, Dale and Davies 1st Addition.

That property within the following described boundary: Beginning at the intersection of France Avenue and the southerly right-of-way line of State Highway No. 100; thence northeasterly along said right-of-way line to its intersection with the south line of Block 4, Brooklyn Manor Addition; thence easterly along said south line to the southwest corner of Lot 5 of said Block 4; thence northerly along the west line of Lot 5 to a point on the west line of Lot 5 which is the intersection of a line drawn between the southwest corner of Lot 11, Block 4, Brooklyn Manor Addition and a point on the west line of Lot 4 of said Block 4 a distance of 180 feet from the center line of 49th Avenue; thence easterly along said constructed line to its end point on the west line of said Lot 4; thence northerly along said west line to 49th Avenue; thence easterly along 49th Avenue to its intersection with State Highway No. 152; thence southerly along State Highway No. 152 to the east City limits; thence southerly along the east City limits to the southwesterly line of the Minneapolis, St. Paul and Sault Ste. Marie Railroad right-of-way; thence northwesterly along said railroad right-of-way line to the northeast corner of Tract H, Registered Land Survey No. 1023; thence southerly along the east line of Tracts H and K, of R.L.S. No. 1023 to the south line of Tract K; thence westerly along said south line of Tract K, and the south line (and south line extended) of Registered Land Surveys No. 981 and 952, to its intersection with France Avenue; thence north along France Avenue to the point of beginning, except for Lot 1, Block 1, Howe, Inc. 2nd Addition.

That area bounded by the following: 50th Avenue on the north; the northerly right-of-way line of State Highway No. 100 on the east and south; France Avenue on the west.

That part of Government Lot 2, Section 10, bounded by the following: the south line of Block 2, Twin View Meadows on the north; France Avenue on the east; the northerly right-of-way line of the Minneapolis, St. Paul and Sault Ste. Marie Railroad on the south; Outlot B, Twin View Meadows, on the west.

Outlot B, Twin View Meadows.

That part of Government Lot 2, Section 10, lying south of the southerly right-of-way line of the Minneapolis, St. Paul, and Sault Ste. Marie Railroad; east of France Avenue; and north of the south line of Lot 2, except the following described part of said Lot 2. The south 514 feet of said Lot 2 lying west of the east 2177.32 feet, except the east 185 feet of the north 20 feet thereof; and also that part of said Lot 2 lying north of the south 514 feet and lying west of the

east 2207.32 feet, except the east 155 feet of the south 20 feet thereof.

Section 35-1220. PUBLIC OPEN SPACE DISTRICT (0-1). The following properties are hereby established as being within the (0-1) Public Open Space District zoning classification:

Tracts B, C and D of Registered Land Survey No. 1274.

Outlot H, Twin Cities Interchange Park Addition, except that part lying westerly of a line described as beginning at a point in the north line thereof distant 802.57 feet (as measured along said north line) northwesterly from the most northeasterly corner thereof; thence southwesterly 274.52 feet to a Judicial Landmark in the southerly line of said Outlot H, distant 60.95 feet southeasterly from the southeast corner of Lot 1, Garden City 1st Addition, and said line there terminating.

Outlot E Brooklyn Center Industrial Park Plat 1.

That part of the south 2 of the southwest 1/4 of Section 35 lying between the extension easterly of the north line of Block 2, Garden City 1st Addition, and the extension easterly of the south line of Block 3, Garden City 1st Addition; and lying west of Shingle Creek (County Ditch No. 13) and east of the easterly line of Brooklyn Drive.

The property within the following described boundary: Commencing at the southeast corner of the southwest 1/4 of the southwest 1/4; thence west a distance of 51 rods along the south line of Section 35; thence north 14 rods and 2 feet at an angle of south 3°53'30" east; thence east, parallel with the south line of Section 35, a distance of 68 rods to the center of old Shingle Creek; thence southerly along old Shingle Creek to the south line of Section 35; thence west along said south line to the point of beginning.

That part of Lot 1, Auditor's Subdivision No. 218, lying east of the west 655.69 feet thereof.

That part of Lot 2, Auditor's Subdivision No. 218, lying east of Hipp's 4th Addition.

All of Twin Lake Park Addition, except Lot A therein.

That part of Lot 22, Auditor's Subdivision No. 216 described as follows: Beginning at the southeast corner of said Lot 22; thence south 88°00' west along the south line of said Lot 22 a distance of 505.01 feet; thence north 17°00' east a distance of 158.55 feet; thence north 22°00' west a distance of 285 feet to the actual point of beginning of the land hereinafter described; thence south 65°00' west to the shore of Twin Lake; thence westerly and southerly along the shore of said Twin Lake to the south line of said Lot 22; thence west along the south line of said Lot 22 to the easterly right-of-way line of County Road No. 10 (also known as Bass Lake Road); thence north and east along the easterly and southerly right-of-way line of said County Road No. 10 to a point on said southerly right-of-way line of County Road 10 distant 565.38 feet west of the east line of said Lot 22 as measured along the southerly line of said County Road No. 10; thence south 0°00' a distance of 211.48 feet more or less to the actual point of beginning.

That part of Tract A, Registered Land Survey No. 40 lying west of Halifax Avenue.

That part of Tract C, Registered Land Survey No. 40 lying west of Halifax Avenue and west of Registered Land Survey No. 638.

Tract V, Registered Land Survey No. 40.

That part of the north 200 feet of Lot 33, Auditor's Subdivision No. 216, lying west of the extended east line of Tract V, Registered Land Survey No. 40.

That part of Tract D, Registered Land Survey No. 235 lying west of the east 615 feet thereof.

That part of Tract E, Registered Land Survey No. 235 lying west of a straight line extension of a line drawn 615 feet west of the east line of Tract D, Registered Land Survey No. 235.

That part of Government Lot 2, Section 10, bounded by the following: a straight line extension of a line drawn 615 feet west of the east line of Tract D, Registered Land Survey No. 235, on the east; the northerly right-of-way line of the Minneapolis, St. Paul and Sault Ste. Marie Railroad on the south; the north line of Government Lot 2 on the north.

That part of Government Lot 2, Section 10, described as follows: The south 514 feet of said Lot 2 lying west of the east 2177.32 feet, except the east 185 feet of the north 20 feet thereof; and also that part of said Lot 2 lying north of the south 514 feet and lying west of the east 2207.32 feet, except the east 155 feet of the south 20 feet thereof.

That part of Lots 31 and 32, Auditor's Subdivision No. 218, lying south of Twin Cities Interchange Park Addition, west of Shingle Creek Parkway, north of County Road No. 10, and east of County Ditch No. 13 (Shingle Creek).

The westerly 100 feet of that part of Outlot F, Brooklyn Center Industrial Park Plat 1 which lies in Section 35 T118, R21.

Outlot A, Twin View Meadows.

Section 35-1230. PUBLIC AND PRIVATE OPEN SPACE DISTRICT (0-2). The following properties are hereby established as being within the (0-2) Public and Private Open Space District zoning classification:

That part of Government Lot 3, Section 10, Township 118, Range 21, Hennepin County, Minnesota, lying southerly of the following described line: Commencing at the southeast corner of the north 40 acres of said Government Lot 3: thence running southerly along the east line of said Government Lot 3 a distance of 200.62 feet to the actual point of beginning of the line to be described; thence running westerly parallel with the south line of said north 40 acres of Government Lot 3 to the easterly shoreline of Twin Lake and there terminating;

and lying westerly of the following described line: Beginning at a point on the above described line distant 2150.32 feet westerly of the east line of Government Lot 3; thence running southeasterly at an angle of 63°6' from the above described line a distance of approximately 519 feet to a point on the south line of Government Lot 3 and there terminating, except that part thereof taken for roadway purposes as shown in document #3292089 in Book 2301 of Deeds, Page 451.

That property within the following described boundary: Commencing at the southeast corner of the northeast 1/4 of the southeast 1/4 of Section 10, thence west along the south line thereof a distance of 997.71 feet; thence north a distance of 946.89 feet to the southerly line of Minneapolis, St. Paul, and Sault Ste. Marie Railroad right-of-way; then southeasterly along said right-of-way a distance of 1044.16 feet to the east line of Section 10; thence south along said east line to the point of beginning.

Section 35-1240. PLANNED UNIT DEVELOPMENT DISTRICT (PUD). The following properties are hereby established as being within a (PUD) Planned Unit Development District zoning classification:

1. The following properties are designated as PUD/R1 (Planned Unit Development/One Family Residential):

Lots 1 through 12, Block 1, and Lots 1 through 13, Block 2, Twin View Meadows.

Lot 1, Block 1, Evangelical Lutheran Church of the Master 2nd Addition.

Lots 1, 2, and 3, Block 1, Brookdale Manor 2nd Addition.

That part of Lot 22, Auditor's Subdivision No. 216, Hennepin County, Minnesota, described as follows: Beginning at the southeast corner of said Lot 22, thence south 88° 00' west along the south line of said Lot 22 a distance of 505.01 feet to the actual point of beginning of the land to be hereinafter described; thence north 17° 00' east a distance of 158.55 feet, thence north 22° 00' west a distance of 285 feet, thence south 65° 00' west to the shore of Twin Lake, thence easterly and southerly along the shore of said Twin Lake to the south line of said Lot 22, thence east along the south line of said Lot 22 to the point of beginning, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County; except that part which lies westerly of the following described line: Commencing at the southeast corner of said Lot 22, thence south 88° 00' west along the south line of said Lot 22 a distance of 505.01 feet; thence north 17° 00' east a distance of 158.55 feet; thence north 22° 00' west a distance of 285 feet, thence south 65° 00' west a distance of 316 feet to the actual point of beginning, thence south 23° west to the shore of Twin Lake.

Lot 1, Block 1, Center Brook Addition; Lot 4, Block 1, Replat of Block 2 Lang Addition; and Lot 2, Block 1, Osseo Willow Lane Addition.

2. The following properties are designated as PUD/MIXED (Planned Unit Development/Mixed Use): Tracts A and B, R.L.S. No. 1603 and the westerly 10 feet of Tract H, R.L.S. No. 1380, south of the easterly extension of the north line of Tract A, R.L.S. No. 1603.

3. The following properties are designated as PUD/I-1 (Planned Unit Development/Industrial Park):

Tract C, R.L.S. No. 1377.

Tracts A, B, and C, R.L.S. No. 1564.

Tracts A, B, C, and G, R.L.S. No. 1572.

Tracts A and B, R.L.S. No. 1619.

Lots 1, 2, and 3, Block 1, Shingle Creek 5th Addition.

Lots 1 and 2, Block 1, Wirth Addition.

Lot 1, Block 1, Howe Inc. 2nd Addition.

4. The following properties are designated as PUD/C2 (Planned Unit Development/Commerce):

Tract A, RLS 1477.

Lot 2, Block 1, SuperAmerica 5th Addition.

Lots 1 through 4, Block 1, Johnco Addition.

That area bounded by the following: County Road No. 10 on the north; State Highway 100 on the east and south; Xerxes Avenue on the west, except for Tract A, Registered Land Survey No. 1151.

Lot 1, Block 1, Metro Motors Addition; Lot 1, 2 and 3, Block 1, Regal Road Development Addition; Lot 1, Block 6, Wangstad's Brooklyn Terrace Addition; Lot 1, Block 1, Chrysler Motors Corporation 2nd Addition.

Lot 1, Block 1, CVS Brooklyn Boulevard Addition.

Lot 1, Block 1, Chrysler Realty Addition.

Lots 1 and 2, Block 1, Bri Mar 2nd Addition.

Lots 1 and 2 and the East 83' of Lot 3, Block 2, Northtown Plaza 2nd Addition.

Lots 3 (that part lying west of east 83 feet) and 4, Block 2, Northtown Plaza 2nd Addition, Hennepin County, Minnesota.

Lot 1, Block 1, MONTY ADDITION.

Tract A, Registered Land Survey No. 806, Hennepin County, Minnesota. [Addr: 4007 – 69th Avenue North]

The East Half of That Part of Lot 3, Auditor's Subdivision No. 25, Hennepin County, Minnesota described as follows: Commencing at a Point on the East Line of Said Lot 3, 289.74 feet South of the centerline of 69th Avenue North (formerly County Road No. 130), which Point is marked by a Judicial Landmark; thence West parallel with the centerline of said 69th Avenue North, 300.68 feet for the Point of commencement of the land to be herein described; thence continuing West parallel with the centerline of said 69th Avenue North, 150.34 feet; thence North parallel with the East Line of said Lot to the centerline of said 69th Avenue North, treating said centerline as the North Line of said Lot 3; thence East along the centerline of said 69th Avenue North, to its Intersection with a line running North and South parallel with and distant 300.68 feet West of the East Line of said Lot; thence South on the last mentioned parallel line to the Point of Commencement of the land described herein. [Addr: 4001 – 69th Avenue North]

That Part of Lot 3, Auditor's Subdivision No. 25, Hennepin County, Minnesota described as follows: Commencing at a Point on the East Line of said Lot 3, 289.74 feet South of the centerline of 69th Avenue North (formerly County Road No. 130); thence West parallel with the centerline of 69th Avenue North a distance of 300.68 feet; thence North parallel with the East line of said Lot 3 to the centerline of 69th Avenue North; thence East along the centerline of 69th Avenue North to the Northeast Comer of said Lot 3, treating the said centerline of 69th Avenue North as the North Line of said Lot 3; thence South along the East Line of said Lot 3, 289.74 feet to the Place of Beginning;

Except That Part Thereof Described as follows: The City-owned land situated in that Part of Lot 3, Auditor's Subdivision No. 25, Hennepin County, Minnesota described as follows: Commencing at a Point on the East Line of said Lot 3, 289.74 feet South of the centerline of 69th Avenue North (formerly County Road No. 130); thence West parallel with the centerline of said 69th Avenue North a distance of 150.34 feet; thence North parallel with the East Line of said Lot 3 to the centerline of said 69th Avenue North; thence East along the centerline of said 69th Avenue North to the Northeast Comer of said Lot 3, treating the said centerline of said 69th Avenue North as the North Line of said Lot 3; thence South along the East Line of said Lot 3, 289.74 feet to the Place of Beginning. [Addr: 3955 – 69th Avenue North]

Lot 1, Block 1, Northbrook Center 3rd Addition.

5. The following properties are designated as PUD/R3 (Planned Unit Development/Multiple Family Residence):

Lots 1 through 13, Block 1, Estates of Riverwood Addition.

Lots 1 through 8, Block 2, Estates of Riverwood Addition.

6. The following properties are designated as PUD/CI-A (Planned Unit Development/Service/Office District):

Lot 1, Block 1, Brooklyn Farm Plat.

7. The following properties are designated as PUD/CI (Planned Unit Development/Service/Office):

Lot 3, Block 1, Osseo Schools Willow Lane Addition.

8. The following properties are designated as PUD-MIXED C2/I-1 (Planned Unit Development-Mixed Commerce and Industrial Park):

Lot 1, Block 1, Tennis Acres Two, Hennepin County, Minnesota.

AND

That part of Tracts A and B described below:

Tract A. That part of Lot 1, Block 1, Dale and Davies 2nd Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota, embraced within Lot 8, Block 1, "Lakebreeze Addition, Hennepin County, Minnesota";

Tract B. Lot 1, Block 1, Dale and Davies 2nd Addition, except that part thereof embraced within Lot 8, Block 1, "Lakebreeze Addition, Hennepin County, Minnesota", according to the plat thereof on file and of record in the office of the County Recorder in and for said County; the title thereto being registered; which lies westerly of Line 1 described below:

Line 1. Commencing at Right of Way Boundary Corner B10 as shown on Minnesota Department of Transportation Right of Way Plat No. 27-125 as the same is on file and of record in the office of said County Recorder; thence westerly on an azimuth of 255 degrees 49 minutes 48

seconds along the boundary of said plat for 225.71 feet to Right of Way Boundary Corner B9 and the point of beginning of Line 1 to be described; thence on an azimuth of 120 degrees 07 minutes 12 seconds for 131.00 feet; thence on an azimuth of 131 degrees 54 minutes 46 seconds for 121.95 feet (which course intersects the east line of Tract B hereinbefore described at a point thereon, distant 96.57 feet south of the northeast corner thereof); thence on an azimuth of 159 degrees 16 minutes 25 seconds for 36.98 feet; thence on an azimuth of 174 degrees 16 minutes 01 seconds for 37.02 feet; thence on an azimuth of 193 degrees 55 minutes 43 seconds for 39.03 feet to a point hereinafter referred to as Point "A"; thence continue on an azimuth of 193 degrees 55 minutes 43 seconds for 33.68 feet; thence on an azimuth of 220 degrees 22 minutes 39 seconds for 66.89 feet; thence on an azimuth of 270 degrees 53 minutes 36 seconds for 6.25 feet to Right of Way Boundary Corner B7 as shown on said Plat No. 27-125; thence on an azimuth of 270 degrees 53 minutes 36 seconds along the boundary of said plat for 0.06 foot to the southeast corner of said Tract B; thence continue on an azimuth of 270 degrees 53 minutes 36 seconds along the boundary of said plat and the south line of said Tract B for 149.68 feet to Right of Way Boundary Corner B8 and there terminating.

9. The following properties are designated as PUD-MIXED R5/R6 (Planned Unit Development-Mixed Multiple Family Residence) District:

Lot 1 and Lot 2, Block 1, Maranatha Addition, Hennepin County, Minnesota.

10. The following properties are designated as PUD-MIXED R2/R3 (Planned Unit Development-Mixed Two Family Residence and Multiple Family Residence) District:

That part of Section 10 described as follows: Commencing at the northwest corner of the northeast 1/4 of the northeast 1/4; thence south 518 feet; thence east to the southwesterly line of Highway No. 152; thence southeasterly 600 feet along said southwesterly line to the actual point of beginning; thence west 200 feet; thence northwesterly 150 feet parallel with said highway line; thence west to the southeasterly line of State Highway No. 100; thence southwesterly to the south line of the northeast 1/4 of the northeast 1/4; thence east to the southwesterly line of Highway No. 152; thence northwesterly to the point of beginning; except highway.

Section 35-2000. OVERLAY DISTRICTS. In addition to the land use districts listed in Section 35-300 of this ordinance, the following Overlay Districts are hereby established:

1. Flood Plain District

2. Critical Area District
3. Historical Preservation District
4. CC Central Commerce Overlay District

Any land which is classified by this ordinance as being within an Overlay District shall be subject to the regulations governing land use activities within such a district in addition to the use regulations established in Sections 35-300 through 35-331 of this ordinance, and to any other regulations as applicable.

Section 35-2100. FLOODPLAIN MANAGEMENT

Subsection 1. Statutory Authorization, Findings of Fact and Purpose

1. Statutory Authorization

- a. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Brooklyn Center, Minnesota does ordain as follows.

2. Purpose

- a. This ordinance regulates development in the flood hazard areas of the City of Brooklyn Center (hereinafter referred to in some cases as the “City”). These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- b. National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.
- c. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

Subsection 2. General Provisions

1. How to Use This Ordinance

- a. This ordinance adopts the floodplain maps applicable to the City of Brooklyn Center and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
- b. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Subsections 4 and 5 will apply, depending on the location of a property.
- c. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Subsection 4 apply unless the floodway boundary is determined, according to the process outlined in Subsection 6. Once the floodway boundary is determined, the Flood Fringe District standards in Subsection 5 may apply outside the floodway.

2. Lands to Which Ordinance Applies

- a. This ordinance applies to all lands within the jurisdiction of the City of Brooklyn Center shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
- b. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

3. Incorporation of Maps by Reference

- a. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the offices of the Zoning Official and the City Clerk.
- b. Effective Flood Insurance Rate Map panels numbers as follows:

27053C0203F

27053C0204F

27053C0208F

4. Regulatory Flood Protection Elevation

- a. The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

5. Interpretation

- a. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
- b. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Official must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- c. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

6. Abrogation and Greater Restrictions

- a. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

7. Warning and Disclaimer of Liability

- a. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Brooklyn Center or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

8. Severability

- a. If any section, clause, provision, or portion of this ordinance is adjudged

unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

9. Definitions

- a. Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.

Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.

Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe – the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Hennepin County, Minnesota.

Flood Insurance Rate Map – an official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).

Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

New Construction – Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition below).

Principal Use or Structure – all uses or structures that are not accessory uses or structures.

Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regulatory Flood Protection Elevation (RFPE) – an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Repetitive Loss – Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

Special Flood Hazard Area – a term used for flood insurance purposes

synonymous with “One Hundred Year Floodplain.”

Special Use – a specific type of structure or land use listed in the official control that may be allowed, subject to the procedures and standards contained in Subsection 10, Subpart 4 of this ordinance, but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (a) Certain conditions as detailed in the zoning ordinance exist; and (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Subsection 9, Subpart 2.c. of this ordinance and other similar items.

Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to it’s before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the

actual repair work performed. The term does not, however, include either:

- (i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (ii) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

Zoning Official – The Zoning Official shall be the City Manager who may designate other employees or agents of the City to perform the duties of the zoning official.

10. Annexations

- a. The Flood Insurance Rate Map panels adopted by reference into Subsection 2, Subpart 3 above may include floodplain areas that lie outside of the corporate boundaries of the City of Brooklyn Center at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Brooklyn Center after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

11. Detachments

- a. The Flood Insurance Rate Map panels adopted by reference into Subsection 2, Subpart 3. above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the City of Brooklyn Center after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.

Subsection 3. Establishment of Zoning Districts

1. Districts

- a. Floodway District

The Floodway District includes those areas within Zones AE that have a

floodway delineated as shown on the Flood Insurance Rate Map adopted in Subsection 2, Subpart 3. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

b. Flood Fringe District

The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Subsection 2, Subpart 3, but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the one percent (1%) annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

c. General Floodplain District

The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in Subsection 2, Subpart 3.

2. Applicability

- a. Within the floodplain districts established in this ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or special uses in Subsections 4, 5 and 6 noted herein are prohibited. In addition, critical facilities, as defined in Subsection 2, Subpart 9.a. are prohibited in all floodplain districts.

Subsection 4 Floodway District (FW)

1. Permitted Uses

The following uses, subject to the standards set forth in Subsection 4, Subpart 2 below are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Industrial-commercial loading areas, parking areas, and airport landing strips.

- c. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- d. Residential lawns, gardens, parking areas, and play areas.
- e. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

2. Standards for Floodway Permitted Uses

- a. The use must have a low flood damage potential.
- b. The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
- c. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

3. Special Uses

The following uses may be allowed as special uses following the standards and procedures set forth in Subsection 10, Subpart 4 of this ordinance and further subject to the standards set forth in Subsection 4, Subpart 4 below, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- a. Structures accessory to the uses listed in Subsection 4, Subpart 1.a., 1.b and 1.c above and the uses listed in in Subsection 4.0, Subpart 3.a. and 3.b below.
- b. Extraction and storage of sand, gravel, and other materials.
- c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- d. Storage yards for equipment, machinery, or materials.
- e. Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined Subsection 2, Subpart 9.a are permitted uses.

- f. Travel-ready recreational vehicles meeting the exception standards in Subsection 9, Subpart 2.b.
- g. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4. Standards for Floodway Special Uses

- a. All Uses. A special use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- b. Fill; Storage of Materials and Equipment:
 - 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - 2) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - 3) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- c. Accessory Structures. Accessory structures, as identified in Subsection 4, Subpart 3.a. above may be permitted, provided that:
 - 1) structures are not intended for human habitation;
 - 2) structures will have a low flood damage potential;
 - 3) structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - 4) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

- 5) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
- 6) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - (i) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- d. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- e. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- f. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

Subsection 5. Flood Fringe District (FF)

1. Permitted Uses

- a. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Subsection 5, Subpart 2

below. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

2. Standards for Flood Fringe Permitted Uses

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
- b. Accessory Structures. As an alternative to the fill requirements of Subsection 5, Subpart 2.a. noted above, structures accessory to the uses identified in Subsection 5, Subpart 1 above may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - 1) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - 2) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:
 - (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;
 - (ii) be constructed with materials resistant to flood damage; and
 - (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.
 - 3) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - (i) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) There must be openings on at least two sides of the structure

and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

- c. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Subsection 5, Subpart 2.a of this ordinance, or if allowed as a special use under Subsection 5, Subpart 3.c below.
- d. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- e. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- f. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- g. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- h. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City.
- i. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- j. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
- k. Manufactured homes and recreational vehicles must meet the standards of Subsection 9 of this ordinance.

3. Special Uses

The following uses and activities may be allowed as special uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Subsection 10, Subpart 4 of this ordinance.

- a. Any structure that is not elevated on fill or floodproofed in accordance with Subsection 5, Subparts 2.a. and 2.b of this ordinance.
- b. Storage of any material or equipment below the regulatory flood protection elevation.
- c. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Subsection 5, Subparts 2.a. of this ordinance.
- d. The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Subsection 5, Subpart 4.f. below.

4. Standards for Flood Fringe Special Uses

- a. The standards listed in Subsection 5, Subpart 2.d through 2.j above apply to all special uses.
- b. Basements, as defined by Subsection 2, Subpart 9.a of this ordinance, are subject to the following:
 - 1) Residential basement construction is not allowed below the regulatory flood protection elevation; and
 - 2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with the below Subsection 5, Subpart 4.c of this ordinance.
- c. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- d. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - 1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - 2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City.
 - 3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- e. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- f. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
 - 1) Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - 2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - (i) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of

the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

- (ii) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

Subsection 6. General Floodplain District (GF)

1. Permitted Uses

- a. The uses listed in Subsection 4, Subpart 1 of this ordinance, Floodway District Permitted Uses, are permitted uses.
- b. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Subsection 6, Subpart 2 below. Subsection 4 applies if the proposed use is determined to be in the Floodway District. Subsection 5 applies if the proposed use is determined to be in the Flood Fringe District.

2. Procedures for Floodway and Flood Fringe Determinations

- a. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Official must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- b. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Subsection 6, Subpart 2.c below.
- c. The determination of floodway and flood fringe must include the following components, as applicable:

- 1) Estimate the peak discharge of the regional (1% chance) flood.
 - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- d. The Zoning Official will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Official may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Official may approve or deny the application.
 - e. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Official must process the permit application consistent with the applicable provisions of Subsection 4 and Subsection 5 of this ordinance.

Subsection 7. Land Development Standards

1. In General

- a. Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Brooklyn Center.

2. Subdivisions

- a. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- b. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- c. All subdivisions must have road access both to the subdivision and to the

individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

- d. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- e. In the General Floodplain District, applicants must provide the information required in Subsection 6, Subpart 2 of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- f. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
 - 1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;
 - 2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - 3) Adequate drainage is provided to reduce exposure of flood hazard.

3. Building Sites

- a. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
 - 1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2) Constructed with materials and utility equipment resistant to flood damage;
 - 3) Constructed by methods and practices that minimize flood damage; and

- 4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Subsection 8. Public Utilities, Railroads, Roads, and Bridges

1. Public Utilities

- a. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

2. Public Transportation Facilities

- a. Railroad tracks, roads, and bridges to be located within the floodplain must comply with Subsection 4 and Subsection 5 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

3. On-site Water Supply and Sewage Treatment Systems

- a. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

Subsection 9. Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles

1. Manufactured Homes

- a. New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

- 1) Placement or replacement of manufactured home units is prohibited in the Floodway District.
- 2) If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Subsection 5 of this ordinance and the following standards:
 - (i) New and replacement manufactured homes must be elevated in compliance with Subsection 5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
 - (ii) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Subsection 7, Subpart 2.c.

2. Recreational Vehicles

- a. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.
- b. Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Subsection 9, Subpart 2.c below.
 - 1) Individual lots or parcels of record.
 - 2) Existing commercial recreational vehicle parks or campgrounds.
 - 3) Existing condominium-type associations.
- c. Criteria for Exempt Recreational Vehicles:
 - 1) The vehicle must have a current license required for highway use.
 - 2) The vehicle must be highway ready, meaning on wheels or the

internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

- 3) No permanent structural type additions may be attached to the vehicle.
 - 4) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
 - 5) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Subsection 9, Subpart 1.
 - 6) An accessory structure must constitute a minimal investment
- d. Recreational vehicles that are exempt in Subsection 9, Subpart 2.c lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Subsection 5 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

Subsection 10. Administration

1. Zoning Official

- a. The Zoning Official or other official designated by the City Manager must administer and enforce this ordinance.

2. Permit Requirements

- a. Permit Required. A permit must be obtained from the Zoning Official prior to conducting the following activities:
 - 1) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

- 2) The use or change of use of a building, structure, or land.
 - 3) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance.
 - 4) The change or extension of a nonconforming use.
 - 5) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - 6) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - 7) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for such work.
 - 8) Any other type of “development” as defined in Subsection 2, Subpart 9.a of this ordinance.
- b. Application for Permit. Permit applications must be submitted to the Zoning Official on forms provided by the Zoning Official. The permit application must include the following as applicable:
- 1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
 - 2) Location of fill or storage of materials in relation to the stream channel.
 - 3) Copies of any required municipal, county, state or federal permits or approvals.
 - 4) Other relevant information requested by the Zoning Official as necessary to properly evaluate the permit application.
- c. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Official stating that the use of the building or land conforms to the requirements of this ordinance.
- d. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the

finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

- e. Record of First Floor Elevation. The Zoning Official must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Official must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- f. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Official must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- g. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Official must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

3. Variances

- a. Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Section 35-240 of the City Zoning Ordinance.
- b. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, or permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- c. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - 1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - 2) Variances may only be issued by a community upon the following:
 - (i) a showing of good and sufficient cause;

- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - 3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Flood Insurance Notice. The Zoning Official must notify the applicant for a variance that:
 - 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- e. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and special uses in floodplains:
 - 1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - 2) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - 3) the proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - 4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - 5) The importance of the services to be provided by the proposed use to the community;

- 6) The requirements of the facility for a waterfront location;
 - 7) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - 9) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - 10) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
 - 11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- f. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Official must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- g. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- h. Record-Keeping. The Zoning Official must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

4. Special Uses

- a. Administrative Review. An application for a special use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section 35-220 of the City Zoning Ordinance.
- b. Factors Used in Decision-Making. In passing upon special use applications, the City must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Subsection 10, Subpart 3.e. of this ordinance.

- c. Conditions Attached to Special Use Permits. The City may attach such conditions to the granting of special use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - 1) Modification of waste treatment and water supply facilities.
 - 2) Limitations on period of use, occupancy, and operation.
 - 3) Imposition of operational controls, sureties, and deed restrictions.
 - 4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - 5) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- d. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Official must submit hearing notices for proposed special uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- e. Submittal of Final Decisions to the DNR. A copy of all decisions granting special uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

Subsection 11. Nonconformities

1. Continuance of Nonconformities

- a. A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Subsection 2, Subpart 9.a of this ordinance, are subject to the provisions of Subsection 11, Subpart 1.b through 1.g noted below of this ordinance.
- b. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage

potential or degree of obstruction to flood flows except as provided in Subsection 11, Subpart 1.c below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

- c. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Subsection 11, Subpart 1.d and 1.h below.
- d. If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of Subsections 4 or 5 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- e. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Official in writing of instances of nonconformities that have been discontinued for a period of more than one year.
- f. If any nonconformity is substantially damaged, as defined in Subsection 2, Subpart 9.a of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Subsections 4 or 5 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- g. If any nonconforming use or structure experiences a repetitive loss, as defined in Subsection 2, Subpart 9.a of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
- h. Any substantial improvement, as defined in Subsection 2, Subpart 9.a of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Subsections 4 or 5 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

Subsection 12. Penalties and Enforcement

1. Violation Constitutes a Misdemeanor
 - a. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special uses) constitute a misdemeanor and will be punishable as defined by law.
2. Other Lawful Action
 - a. Nothing in this ordinance restricts the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Official within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.
3. Enforcement
 - a. Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section 35-1040 of the City Zoning Ordinance. In responding to a suspected ordinance violation, the Zoning Official and City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Brooklyn Center must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

Subsection 13. Amendments

1. Floodplain Designation – Restrictions on Removal
 - a. The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

2. Amendments Require DNR Approval

- a. All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

3. Map Revisions Require Ordinance Amendments

- a. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Subsection 2, Subpart 3 of this ordinance.

Section 35-2200. ADULT ESTABLISHMENTS.

1. Findings and Purpose

Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Minnetonka, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. Based on these studies and findings, the City Council concludes:

- a. Adult establishments have adverse secondary impacts of the types set forth above.
- b. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing, and health requirements.
- c. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
- d. Minnesota Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals and general welfare.
- e. The public health, safety, morals, and general welfare will be promoted by the City adopting regulations governing adult establishments.

2. Definitions

For purposes of this section, the following terms have the meanings given them.

- a. "Adult Establishment" means a business where sexually-oriented materials are sold, bartered, distributed, leased, or furnished and which meet any of the following criteria:
 - 1) a business where sexually oriented materials are provided for use, consumption, enjoyment, or entertainment on the business premises;
 - 2) a business that is distinguished or characterized by an emphasis on the description or display of specified sexual activities;
 - 3) a business that is distinguished or characterized by an emphasis on the description or display of specified anatomical areas;
 - 4) an adult cabaret as defined in Section 19-1900, Subdivision 1;
 - 5) a business providing sexually oriented materials only for off-site use, consumption, enjoyment or entertainment if the portion of the business used for such purpose exceeds 25% of the retail floor area of the business or 500 square feet, whichever is less.
- b. "Sexually oriented materials" means visual, printed or aural materials, objects or devices that are distinguished or characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities.
- c. "Specified Anatomical Areas" means:
 - 1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
 - 2) Human male genitals in a discernable turgid state, even if completely and opaquely covered.
- d. "Specified Sexual Activities" means:
 - 1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context

of a sexual relationship; anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; or zooerastia;

- 2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
 - 3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
 - 4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
 - 5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
 - 6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
 - 7) Human excretion, urination, menstruation, or vaginal or anal irrigation.
3. Adult establishments may be located only as allowed by Section 35-330 of this code.
 4. Minnesota Statutes Section 617.242 shall not apply in the City.

Section 35-2240. CC CENTRAL COMMERCE OVERLAY DISTRICT.

1. Land may be designated as being within the CC Central Commerce Overlay District by City ordinance. Land use within any area so designated shall comply with the regulations of this section in addition to all regulations applicable to the underlying land use district established in Sections 35-300 through 35-331 of this Code and other regulations as applicable.
2. The following uses are allowed in the CC Central Commerce Overlay District:
 - a. Finance, insurance, real estate and investment office.
 - b. Medical, dental, osteopathic, chiropractic and optometric offices. The compounding, dispensing or sale (at retail) of drugs, prescription items, patent or proprietary medicines, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric

offices.

c. The following office uses:

- 1) Legal
- 2) Engineering and architectural
- 3) Educational and scientific research (excluding laboratory facilities)
- 4) Accounting, auditing and bookkeeping
- 5) An urban planning agency

d. Beauty and barber services.

e. Funeral and crematory services.

f. Photographic services.

g. Apparel repair, alteration and cleaning pickup stations, shoe repair.

h. Advertising offices, provided that the fabrication of signs shall not be a permitted use.

i. Consumer and mercantile credit reporting services office, adjustment and collection service offices.

j. Duplicating, mailing and stenographic service offices.

k. Employment agency offices.

l. Business and management consultant offices.

m. Detective and protective agency offices.

n. Contractor's offices.

o. Governmental offices.

p. Business association, professional membership organizations, labor unions, civic, social and fraternal association offices.

q. Financial institutions including, but not limited to, full-service banks and savings and loan associations.

r. Drop-in child care centers licensed by the Minnesota Department of Public Welfare pursuant to a valid license application, provided that a copy of said license and application shall be submitted annually to the City.

s. Leasing offices, provided there is no storage or display of products on the use

site.

- t. Libraries and art galleries.
- u. Instructional uses for art, music, photography, decorating, dancing and the like and studios for like activity.
- v. Nonresidential educational uses including Area Learning Centers (ALC), post secondary schools, business schools, trade schools and the like, but excluding public and private elementary and secondary schools. (K-12).
- w. The retail sale of food.
- x. Eating establishments.
- y. Convenience-food restaurants provided they do not abut an R1, R2 or R3 zoning district including abutment at a non-major thoroughfare street line.
- z. Eating establishments offering live entertainment; recreation and amusement places such as motion picture theaters and legitimate theater; sports arenas, bowling alleys, skating rinks, and gymnasiums, and event centers renting space to organizations and individuals for meetings, receptions, events, gatherings, trade shows, seminars and entertainment, all provided they do not abut an R1, R2 or R3 zoning district including abutment at a non-major thoroughfare street line.
- aa. The retail sale of heating and plumbing equipment, paint, glass, and wallpaper, electrical supplies, and building supplies.
- bb. The retail sale of tires, batteries and automobile accessories and marine craft accessories.
- cc. The retail sales of apparel and related accessories.
- dd. The retail sale of furniture, home furnishings and related equipment.
- ee. The retail sale of miscellaneous items such as the following:
 - 1) Drugs and proprietary items
 - 2) Liquors
 - 3) Antiques and secondhand merchandise
 - 4) Books and stationery
 - 5) Garden supplies
 - 6) Jewelry
 - 7) Flowers and floral accessories

- 8) Cigars and cigarettes
- 9) Newspapers and magazines
- 10) Cameras and photographic supplies
- 11) Gifts, novelties and souvenirs
- 12) Pets
- 13) Optical goods
- 14) Sporting goods and bicycles

ff. The following repair/service uses:

- 1) Electrical repair service shops.
- 2) Household appliances, electrical supplies, heating and plumbing equipment.
- 3) Radio and television repair service shops.
- 4) Watch, clock and jewelry repair service shops.
- 5) Laundering, dry cleaning and dyeing.

gg. Gasoline service stations (see Section 35-414), motor vehicle repair and auto washes, trailer and truck rental in conjunction with these uses, provided that there is adequate parking space available for these vehicles.

hh. The sale or vending at gasoline service stations of items other than fuels, lubricants or automotive parts and accessories (and other than the vending of soft drinks, candy, cigarettes and other incidental items for the convenience of customer s within the principal building) provided adequate parking is available consistent with the Section 35-704, 2 (b) and 2 (c).

ii. Transient lodging.

jj. Public transportation terminals (excluding truck terminals).

kk. Tennis clubs, racket and swim clubs and other athletic clubs, health spas and suntan studios.

ll. Group day care facilities provided developments, in each specific case, are demonstrated to be:

- 1) Compatible with existing adjacent land uses as well as with those uses permitted in the C2 district generally.
- 2) Complimentary to existing adjacent land uses as well as with those uses permitted in the C2 district generally.
- 3) Of comparable intensity to permitted C2 district land uses with respect to activity levels.

- 4) Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.
- 5) Traffic generated by other uses on the site will not pose a danger to children served by the day care use.

Furthermore, group day care facilities shall be subject to the special requirements set forth in Section 35-412.

- mm. Public parks, playgrounds, athletic fields and other recreation and open space uses.
- nn. Accessory uses, incidental to the foregoing principal uses when located on the same property with the use to which it is accessory. Such accessory uses to include but not be restricted to the following:
 - 1) Offstreet parking and offstreet loading.
 - 2) Signs as permitted in the Brooklyn Center Sign Ordinance.
 - 3) Outside display and sale of merchandise provided that an administrative permit is first obtained pursuant to Section 35-800 of these ordinances.
 - 4) Retail food shops, gift shops, book and stationery shops, tobacco shops, accessory eating establishments, sale and service of office supply equipment, newsstands and similar accessory retail shops within multistory office buildings over 40,000 sq. ft. in gross floor area, provided: that there is no associated signery visible from the exterior of the building; there is no carry-out or delivery of food from the lot; and the total floor area of all such shops within a building shall not exceed 10% of the total gross floor area of the building.
- oo. Accessory off-site parking not located on the same property with the principal use subject to the provisions of Section 35-701.
- pp. Other uses similar in nature to the aforementioned uses, as determined by the City Council.
3. The following uses are not permitted in the CC Central Commerce Overlay District:
 - a. sauna establishments
 - b. massage establishments
 - c. currency exchanges
 - d. pawn shops

- e. secondhand goods dealers
- 4. The following area is hereby established as being within the CC Central Commerce Overlay District:

The CC Central Commerce Overlay District is located within the area bounded by a continuous line beginning at a point located at the intersection of John Martin Drive and T.H. 100 and going southwesterly along the centerline of T.H. 100 to its intersection with Brooklyn Boulevard; thence northerly along the easterly right-of-way line of Brooklyn Boulevard to a point located approximately 445' northerly of its intersection with County Road No. 10; thence east along an extended line made up of the south boundary lines of the plats for Grimes 2nd Addition, Hipp's 4th Addition and Hipp's 5th Addition, Hennepin County, continued to the centerline of Shingle Creek; thence northerly along the centerline of Shingle Creek to the centerline of I-94; thence easterly along said line to the centerline of Humboldt Avenue North; thence southerly to the centerline of T.H. 100; thence southwesterly to the point of the beginning.